

2025:PHHC:158363



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

239-2

CRR-1281-2012

Date of decision: 13.11.2025

ISHAR SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB

....Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Gulzar Mohd., Advocate
for the petitioner.

Ms. Savi Nagpal, Asst. A.G. Punjab.

VINOD S. BHARDWAJ. J.(Oral)

1. The present revision petition has been preferred against the judgment of conviction and order of sentence dated 01.09.2010 passed by the Judicial Magistrate, 1st Class, Faridkot whereby the petitioner has been convicted and sentenced to undergo imprisonment for a period of two years along with a fine of Rs. 2000/- and in default thereof to further undergo rigorous imprisonment of 15 days for offence under Section 420 of the IPC and imprisonment for a period of one year along with a fine of Rs. 1000/- and in default thereof to further undergo imprisonment of 07 days each for offence under Section 406 of the IPC in case bearing FIR No. 23 dated 25.02.2004 registered under Sections 420, 406 read with

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Section 34 of the IPC at Police Station, Sadar Faridkot and also against the judgment dated 29.03.2012 passed by the Additional Sessions Judge, Faridkot whereby the appeal filed by the petitioner has been partly allowed and the accused is acquitted of the charge under Section 406 of the IPC.

2. The present FIR was registered on the basis of a complaint submitted by Sukhvir Singh, son of Namdev Singh, resident of Village Chak Kalyan, Tehsil and District Faridkot. In his complaint, Sukhvir Singh alleged that Ishar Singh and the petitioner, Harjinder Singh, represented themselves as persons engaged in the business of sending individuals abroad. They assured the complainant that they could facilitate his travel to Italy, where he would be able to earn approximately ₹1,00,000 per month, for a total consideration of ₹4.5 lakhs payable by him. It is further alleged that at the time of receiving a portion of the money, the petitioner also took possession of the complainant's passport and assured him that his visa would be arranged within a period of two to three months, after which the remaining amount of ₹2 lakhs would be collected. However, even after three to four months, no visa was arranged. The complainant asserted that despite repeated requests, the petitioner continued to defer the matter on one pretext or another. Sukhvir Singh stated that he made several attempts to secure the return of his money and passport, but the petitioner neither refunded the amount nor arranged the promised visa. It is further alleged that the petitioner threatened him over the telephone installed at the complainant's residence, stating that he

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would kill him if he persisted in demanding his money. Finding no alternative remedy, the complainant submitted Application No. 1706/PC/4-03 dated 09.12.2003 to the Senior Superintendent of Police, Faridkot, seeking appropriate action against the petitioner-accused.

3. On completion of investigation, final report under Section 173 Cr.P.C. was filed in the Court and documents were supplied to the accused-petitioner free of costs.

4 Finding a prima facie case having been made out, the petitioner was chargesheet for the commission of offence punishable under Sections 420 and 406 read with 34 of the Indian Penal Code, 1860.

5. The entire evidence was put to petitioner and his statement under Section 313 Cr. P.C. was recorded. He denied the same but led no evidence in defence.

6. In order to substantiate its case, the prosecution examined seven witnesses, namely PW-1 Sohan Singh, PW-2 Inspector Darshan Singh, PW-3 Namdev Singh, PW-4 Ranjit Singh, PW-5 Amritpal Singh, PW-6 Jagged Singh and PW-7 Balkaran Singh.

7. No other prosecution witness/evidence was examined or produced and lastly the evidence of prosecution was got closed.

8. The statement of the petitioner was recorded under Section 313 of the Code of Criminal Procedure, wherein all incriminating circumstances and evidence appearing on record were put to him. The petitioner denied the allegations in their entirety, described the

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prosecution case and evidence as false and fabricated, and asserted his innocence. He did not lead any evidence in his defense.

9. On consideration of the evidence and hearing the arguments, the petitioner was convicted by the Judicial Magistrate, 1st Class, Faridkot vide judgment dated 01.09.2010 and sentenced as mentioned above. Appeal against the order of conviction & sentence was partly allowed by the Additional Sessions Judge, Faridkot and acquitted of the charge under Section 406 IPC, vide judgment dated 29.03.2012. Hence, the present petition.

10. Learned counsel for the petitioner contends that he does not wish to challenge the conviction and confines his prayer only to the sentencing. The following mitigating circumstances are pointed out by the counsel for the petitioner:

- The incident in question occurred in December 2003, and about 22 years have since elapsed.
- There is no record of the petitioner having been involved in any other similar criminal offence, either during the pendency or after the conclusion of the present case, indicating that the petitioner has reformed himself and successfully reintegrated into the mainstream of society.
- The petitioner has endured the ordeal of a prolonged criminal trial spanning over sixteen years.



- The petitioner is nearly 73 years old and the same constitutes a compelling consideration favouring leniency, especially where continued incarceration would serve no productive purpose.
- There is nothing on record to suggest any probability of reoffending.

11. On the other hand, the learned State counsel, while opposing the submissions advanced on behalf of the petitioner, has argued that the prosecution has successfully established the guilt of the petitioner through cogent, reliable, and convincing evidence brought on record during trial. It is further contended that the offence committed by the petitioner is of a serious nature and, therefore, calls for imposition of a stringent sentence. The learned State counsel submits that leniency in such cases would send a wrong signal to society and undermine the administration of criminal justice. Hence, it is imperative that adequate and deterrent punishment be imposed to ensure that such acts do not recur and to maintain public confidence in the rule of law.

12. I have heard learned counsel representing the parties and have gone through the case record.

13. The Hon'ble Supreme Court in the matter of **Pramod Kumar Mishra Vs. State of UP (2023) 9 SCC 810**, observed that punishment must not be viewed as an act of vengeance but as a means of reformation and reintegration of the offender into society. It was further held that an appropriate sentence must be determined by considering a range of factors, including the nature and circumstances of the offence, the offender's background, age, mental and emotional condition, potential for



rehabilitation, prior criminal record, and the deterrent needs of the community. Sentencing, the Court noted, involves a delicate exercise of judicial discretion where multiple social, psychological, and moral factors must be balanced to ensure that justice serves both societal protection and individual redemption.

14. The fundamental purpose of imposition of sentence is based upon making an accused realize the consequences of the crime committed by him and the creation of the dent in the life of the victims and also the social fabric. The same by itself does not oblige the Court to extend opportunity to a convict for reforming himself. The principles of proportionality have to be balanced and the impact of the offence on the society as a whole and its ramifications on the victim and the immediate collectives also has to be examined.

15. A nine judge bench of the Supreme Court of the United States, in *Dennis Councle McGautha v. State of California* reported as 402 U.S. 183 (1971), observed that the criteria governing sentencing neither furnish an exhaustive list of relevant considerations nor indicate how various circumstances should influence the decision-making process. In essence, these standards merely suggest broad areas for consideration and underscore the inherent difficulty in formulating uniform sentencing principles, particularly in matters of grave offences. The Court further cautioned against rigidly prescribing or mandating uniform standards for sentencing, emphasizing that the principles governing punishment must depend upon the facts and circumstances of each individual case, and that



no straightjacket formula can be universally applied.

16. Moreover, Italian criminologist and jurist Cesare Beccaria, in his seminal treatise “On Crimes and Punishments,” propounded the doctrine of penal parsimony, emphasizing that the justification of any criminal justice system rests upon its capacity to inflict the least possible evil necessary to achieve its ends. The underlying premise is that punishment, being in itself a necessary evil and devoid of inherent virtue, must be confined strictly within the bounds of necessity. The imposition of suffering or restriction upon an offender cannot extend beyond what is indispensable for the preservation of social order.

17. The penal consequences, in such circumstances, deserve to be moderated to ensure a balance of equities, particularly when the offender has exhibited genuine reformatory conduct. The sentence, therefore, warrants suitable modification to reflect recognition and encouragement of such good behaviour.

18. It is well settled that the object of punishment is not merely to deter but also to reform, and where an offender demonstrates sincere remorse and rehabilitation, the emphasis must shift from retribution to reintegration into society.

19. The case in hand is yet another where interest of justice would warrant a reformatory approach in precedence to a punitive or retributive approach. It is not the function of the judges to seek the transformation of human nature itself, but rather to shape the framework



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their own best interests.

20. Taking into consideration, the facts noticed above and considering that the petitioner has faced the rigor of criminal prosecution for two decades since the registration of the FIR and as against the substantive sentence of 02 years, he has already undergone sentence of 4 month and 23 day, I deem it appropriate to partly allow the petition. While maintaining the judgment of conviction, the order of sentence so passed is modified. The sentence awarded by the Judicial Magistrate, 1st Class, Faridkot vide order dated 01.09.2010 is modified and reduced to the period already undergone. However, the sentence of fine awarded by the Courts below to a sum of Rs.2000/- is increased to Rs.5000/-.The punishment for default in payment of fine shall remain the same.

21. All the pending miscellaneous application(s), if any, are also disposed of.

NOVEMBER 13, 2025
Vishal Sharma

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No