

2025:PHHC-014383



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

CRR-3608-2017

Date of Decision: **29.01.2025**

Narinder Singh

...Petitioner

Versus

Ramesh Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Inderjeet Singh, Advocate for the petitioner.

Mr. Ajay Jain, Advocate for respondent No.1-complainant.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision petition has been preferred against the judgment dated 07.04.2017 passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri vide which, judgment of conviction dated 08.03.2013 and order on quantum of sentence dated 11.03.2013 passed by learned Sub-Divisional Judicial Magistrate, Bilaspur, in case bearing FIR No.140 dated 16.12.1999 under Sections 406/467/468/471/420 of IPC, 1860 registered at Police Station Chhachhrauli, District Yamuna Nagar, vide which respondent No.1 herein, was convicted for offences under Sections 420 and 409 of IPC and was awarded substantive sentence of rigorous imprisonment for two years with total fine of Rs.2,000/-, with default mechanism. In this petition, the petitioner is seeking enhancement of substantive sentence from a period of two years awarded to the accused person.

2. Briefly stated, it is case of the prosecution that petitioner had

moved a complaint with the Police Station Chhachhrauli, District Yamuna Nagar reporting therein that he, his wife and his father are the members of Tihmo Co-operative Credit & Service Society Limited, Tihmo and the accused-respondent was posted as Secretary in the said society. It was further reported that the petitioner and two other members had availed loan facility from the said society and in that context, the petitioner had deposited a total sum of Rs.68,800/- in the society on 30.6.1999 through the accused-respondent and two receipts were also issued on the same day. It was further reported that there being election for Managing Committee of the Society, scheduled for 21.10.1999, voter list of the members was prepared wherein the names of the petitioner and his father were not incorporated being defaulters i.e. in arrears of society, upon which the petitioner made an inquiry and it was revealed that the said amount of Rs. 68,800/- was not accounted for by the accused-respondent, rather, he had embezzled the said amount for himself. It was further reported that when the petitioner had showed the receipts, duly issued, to the accused-respondent, then he refused to honour the same with the remarks that the same were missing from the receipt book. Petitioner made complaint to the Societies, Chhachhrauli and Assistant Registrar, Co-operative Societies, Yamuna Nagar on 18.10.1999. Besides that, petitioner also approached the police of Police Station Chhachhrauli by moving separate application, but, no action upon his application was taken by the police. It was further reported that the application moved by the petitioner before the Sub-Inspector Co-operative Societies was disposed on 25.10.1999 with the observation that the accused-respondent had embezzled the said amount and to save himself from criminal liability, he had made forgery in the record. Further, in the inquiry conducted by Assistant Registrar, Co-operative Societies, Yamuna Nagar, it was observed on 19.11.1999 that the accused-respondent has embezzled the amount and has

also made forgery in the record with an intent to cause loss to the petitioner. On the basis of this complaint, FIR (*supra*) was registered.

3. Learned trial Court after assessing the material available on record convicted the accused-respondent No.1 under Sections 420 and 409 of Indian Penal Code and sentenced him to undergo substantive sentence for two years with total fine of Rs.2,000/- with default mechanism.

4. Learned counsel for the petitioner contends that the learned Court below fell into error by awarding only two years of substantive sentence to the accused-respondent and the same is based on untenable grounds. The charges against the private respondent-accused stand duly proven by all the prosecution witnesses and as such, the learned Court below ought not to have awarded him such a small sentence. Accordingly, he prays that substantive sentence of two years awarded to private respondent be enhanced.

5. Learned State counsel, assisted by learned counsel for private respondent, supports the impugned judgment and submits that the learned Court below has passed an appropriate order on quantum of sentence by awarding two years of substantive sentence along with fine of Rs.2,000/-.

6. Having heard the learned counsel for the parties and after perusing the record with their able assistance, this Court is of the considered opinion that the judgment of conviction indicates no perversity that would warrant any interference. Accordingly, the conviction of respondent No.1 is maintained. However, keeping in view the post-conviction conduct of respondent No.1, this Court deemed it appropriate to reduce his sentence to the custody already undergone by him vide judgment of even date passed in connected case i.e. CRR-1417-2017.

7. In ***Deo Narain Mandal Vs. State of UP (2004) 7 SCC 257***, a three Judge bench of the Hon'ble Supreme Court has opined that awarding of

sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, manner in which the offence is committed, age of the accused, should be considered while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient.

8. Further, a two Judge Bench of the Hon'ble Supreme Court in ***Ravada Sasikala Vs. State of AP AIR 2017 SC 1166***, has reiterated that the imposition of sentence also serves a social purpose as it acts as a deterrent by making the accused realize the damage caused not only to the victim but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner in which the crime was committed and the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

9. In view of the discussion above, present petition stands dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of.

29.01.2025
Parveen kumar

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned :Yes/No
Whether reportable :Yes/No