



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

119 (2 cases)

CRR-2319-2025(O&M);
CRR-2422-2025 (O&M)
Date of decision: 19.12.2025

1. CRR-2319-2025(O&M)

Raghbir ...Petitioner

VERSUS

State of Haryana ...Respondent

2. CRR-2422-2025 (O&M)

Shamsher ...Petitioner

VERSUS

State of Haryana ...Respondent

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

Present :- Mr.Chanderhas Yadav, Advocate for the petitioner
in both the petitions.

Dr. (Ms.) Malvika Singh, DAG, Haryana.

VINOD S. BHARDWAJ, J. (Oral)

These two revision petitions are being decided by a common order since they assail a common judgment. The facts are however being extracted from CRR-2319 of 2025 titled as *Raghbir v State of Haryana*.

2. These revision petitions have been filed against the judgment of conviction dated 20.10.2022 and order of sentence dated 21.10.2022 passed by Judicial Magistrate 1st Class, Rohtak whereby revisionist-petitioners (name of the revisionist/petitioner-Raghbir in CRR-2319-2025 is mentioned as Raghubir in the said order) have been convicted under Sections 420 r/w 511, 468, 471 of Indian Penal Code, 1860 (hereinafter referred to as IPC) in case bearing FIR no. 282 dated 23.07.2015 under Sections 420, 467, 468, 471 of IPC, as well as against the judgment dated 02.09.2025 passed by Additional Sessions Judge, Rohtak vide which appeal filed by the revisionist -petitioners has been dismissed. They have been sentenced as under:-

Name of convict:	Raghubir S/o Bharat Singh
Date of Arrest:	01.08.2016
Date of release on Bail	26.09.2016

Offence charged with	Sections 420, 467, 468, 471 IPC
Convicted under:	Section 420 read with 511,468, 471 IPC
Sentence imposed	Section 420, read with 511 IPC: One year simple imprisonment and fine of Rs.1000/-. Default sentence: 7 days simple imprisonment
	Section 468 IPC: Two years simple imprisonments and fine of Rs.3000/- Default sentence: 10 days simple imprisonment
	Section 471 IPC: One year simple imprisonment and fine of Rs. 1000/- Default sentence: 7 days simple imprisonment
Name of convict:	Shamsher S/o Mansha Ram
Date of Arrest:	31.07.2016
Date of release on Bail	26.09.2016
Offence charged with	Sections 420, 467, 468, 471 IPC
Convicted under:	Section 420 read with 511,468, 471 IPC
Sentence imposed	Section 420, read with 511 IPC: One year simple imprisonment and fine of Rs.1000/-. Default sentence: 7 days simple imprisonment
	Section 468 IPC: Two years simple imprisonments and fine of Rs.3000/- Default sentence: 10 days simple imprisonment
	Section 471 IPC: One year simple imprisonment and fine of Rs. 1000/- Default sentence: 7 days simple imprisonment

3. The facts of the case , in brief, are that on 23.07.2015, ASI Harpal Singh received a complaint from Sajjan Singh, Clerk, Horticulture Department, pursuant to letter no. 311 dated 22.07.2015. It was reported that while working in Village Saiman, Meham, the Department found that two persons – Pawan and Raghubir had applied for carnation flowers and sought financial assistance of Rs.10.28 lakhs. They submitted individual bills amounting to Rs.9.51 lakhs.

4. During scrutiny, it was revealed that no firm had issued any invoice corresponding to the bills submitted, nor had any firm certified the work claimed by the agriculturists. It was, therefore, opined that both applicants had committed fraud with the Horticulture Department by preparing false documents with an intention of misappropriating subsidy

funds. The estimated loss to the Government, had the fraud gone undetected was assessed at Rs.19,49,088/-.

5. The investigation further revealed that the agriculturists attempted to usurp the subsidy amount and misrepresented facts regarding plantation of crops. Accordingly, it was recommended that an FIR be registered for offences of cheating, forgery and use of forged documents. On this complaint, an FIR under Sections 420, 467, 468 and 471 of IPC were registered. During investigation, Pawan Kumar was found innocent and kept out of the preview of investigation. Accused Shamsheer was arrested on disclosure statement.

6. After completion of investigation, final report under Section 173 Cr.P.C. was filed in the Court and documents were supplied to the accused-petitioner(s) free of cost.

7. Finding that a prima facie case is made out, the accused were charge-sheeted for the commission of offences punishable under Sections 420, 467, 468, 471 and 201 of the Indian Penal Code, 1860 and the contents of the same were read over and explained to the accused, to which he pleaded not guilty and claimed trial

8. In order to substantiate its case, the prosecution examined the following fifteen witnesses

PW-1	Jagdish Rai, SMS Fruit, Deputy Director Office, Rohtak
PW-2	Manjeet Singh Sheoran, Branch Manager, Tehsil Meham
PW-3	Deepak Dhatteerwal, Deputy Director, Horticulture, Panchkula
PW-4	Pawan
PW-5	Sub Inspector Harpal Singh
PW-6	ASI Parmod Kumar
PW-7	Head Constable Ashok Kumar
PW-8	EASI Ranvir
PW-9	Constable Hemant
PW-10	Sanjay Tyagi, Area Manager, K.F. Bioplants Pvt Ltd.
PW-11	Constable Devender Kumar

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PW-12	EHC Rajesh Kumar
PW-13	SI (Retd.) Dharambir
PW-14	DSP Gajender Singh
PW-15	Kishore Shri Ram Rajwans, Director, K.F. Bioplants, Pune

9. The statement of the petitioners 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 revisionist-petitioners have produced one witness i.e. Balbir Singh as DW-1.

10. After considering the arguments advanced by the counsels of the parties, the testimonies of witnesses, and the evidence placed on record, the learned Judicial Magistrate 1st Class, Rohtak vide judgment dated 20.10.2022 and order of quantum of sentence dated 21.10.2022, held the petitioner guilty of offences punishable under Sections of the Indian Penal Code, 1860.

11. Aggrieved by the aforesaid judgment of conviction and order of sentence, the petitioner preferred Criminal Appeal No. 35 of 2022 before the Court of the learned Additional Sessions Judge, Rohtak. However, vide judgment dated 02.09.2025 , the learned Additional Sessions Judge, Rohtak, dismissed the aforesaid appeal and consequently affirmed the judgment of conviction dated 20.10.2022 and order of quantum of sentence dated 21.10.2022 passed by the learned Judicial Magistrate 1st Class, Rohtak. Hence, aggrieved by the said judgments, the present revision petition has been preferred.

12. Learned counsel for the petitioners contends, inter alia, that the present case, at best, reflects an attempt to obtain a subsidy for tissue culture. It is submitted that the allegations pertain to proforma invoices being sought to be passed off as bills to claim an expenditure. It is further argued that PW-

10 has specifically admitted that the bills in question had not been forged and, therefore, the offence of forgery is not made out. Moreover, as no subsidy had actually been released, the matter would, at the highest, amount only to an attempt to commit fraud.

13. Learned counsel for the petitioners has been confronted that the said disputed questions of fact have already been gone into by both the Courts and the same would not be re-appreciated only on the basis of a probability of certain other conclusions and that the same would amount to the High Court supplanting its own opinion for that of both the Courts and also that the scope of revisional jurisdiction would not be extended to include any difference of opinion and equate the same to an illegality, perversity or impropriety in the appreciation of evidence. Counsel contends that in such circumstances, he gives up his challenge to the judgments on conviction and that the prayer of the petitioners on the quantum of sentence be considered.

14. Counsel for the petitioners submit that both petitioners are farmers and in their 50s and their continued incarceration will cause huge suffering to their families. Petitioners/Raghubir and Shamsher have already undergone an actual custody of 04 months and 26 days and 05 months 13 days respectively. They have no criminal antecedents and have families to support.

15. Learned State counsel contends that the both the Courts have concurrently examined the evidence and have returned finding of conviction on the case having been proved. However, he submits that he has no objection in case the prayer is considered to the extent of quantum of sentence only.

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16. No other argument has been raised by either of the counsel appearing. No judgment has also been cited.

17. I have heard the learned counsel for the parties and have gone through the documents available on record.

18. The object of punishment is not only to punish but also to rehabilitate the offenders in society. Where an accused reflects a strong possibility of improvement and reformative behaviour, the process of law should come to the aid of such an accused so as to ensure his reintegration into society.

19. The Hon'ble Supreme Court has laid down certain principles to govern the Courts in the matter of sentencing. Reference in this regard may be made to the judgment of the Hon'ble Supreme Court in the matter of **State of Punjab Vs. PremSagar&Ors (2008) 7 SCC 550.** The relevant extract of the said judgment is reproduced hereinbelow: -

5. 'Whether the Court while awarding a sentence would take recourse to the principle of deterrence or reform or invoke the doctrine of proportionality, would no doubt depend upon the facts and circumstances of each case. While doing so, however, the nature of the offence said to have been committed by the accused plays an important role. The offences which affect public health must be dealt with severely. For the said purpose, the courts must notice the object for enacting Article 47 of the Constitution of India.

6. There are certain offences which touch our social fabric. We must remind ourselves that even while introducing the doctrine of plea bargaining in the Code of Criminal Procedure, certain types of offences had been kept out of the purview thereof. While imposing sentences, the said principles should be borne in mind.

7. A sentence is a judgment on conviction of a crime. It is resorted to after a person is convicted of the offence. It is the ultimate goal of any justice-delivery system. Parliament, however, in providing for a hearing on sentence, as would appear from sub-section (2) of Section 235, sub-section (2) of Section 248, Section 325 as also Sections 360 and 361 of the Code of Criminal Procedure, has laid down certain principles. The said provisions lay down the principle that the court in awarding the sentence must take into consideration a large number of relevant factors; sociological backdrop of the accused being one of them.

8. Although a wide discretion has been conferred upon the court, the same must be exercised judiciously. It would depend upon the circumstances in which the crime has been committed and his mental state. Age of the accused is also relevant.

9. What would be the effect of the sentencing on the society is a question which has been left unanswered by the legislature. The Superior Courts have come across a large number of cases which go to show anomalies as regards the policy of sentencing. Whereas the quantum of punishment for commission of a similar type of offence varies from minimum to maximum, even where same sentence is imposed, the principles applied are found to be different. Similar discrepancies have been noticed in regard to imposition of fine.

10. In *Dhananjay Chatterjee Alias Dhana v. State of W.B.* [(1994) 2 SCC 220], this Court held:

"15...Imposition of appropriate punishment is the manner in which the courts respond to the society's cry for justice against the criminals. Justice demands that courts should

impose punishment befitting the crime so that the courts reflect public abhorrence of the crime..."

11. Gentela Vijayavardhan Rao and Another v. State of A.P. [(1996) 6 SCC 241], following Dhananjay Chatterjee (supra), states the principles of deterrence and retribution but the same cannot be categorized as right or wrong. So much depends upon the belief of the judges.

12. In a recent decision in Shailesh Jasvantbhai and Another v. State of Gujarat and Others [(2006) 2 SCC 359], this Court opined:

"7. The law regulates social interests, arbitrates conflicting claims and demands. Security of persons and property of the people is an essential function of the State. It could be achieved through instrumentality of criminal law. Undoubtedly, there is a cross-cultural conflict where living law must find answer to the new challenges and the courts are required to mould the sentencing system to meet the challenges. The contagion of lawlessness would undermine social order and lay it in ruins. Protection of society and stamping out criminal proclivity must be the object of law which must be achieved by imposing appropriate sentence. Therefore, law as a cornerstone of the edifice of 'order' should meet the challenges confronting the society. Friedman in his Law in Changing Society stated that: "State of criminal law continues to be--as it should be--a decisive reflection of social consciousness of society." Therefore, in operating the sentencing system, law should adopt the corrective machinery or deterrence based on factual matrix. By deft modulation, sentencing process be stern where it should be, and tempered with mercy where it warrants to be. The facts and given circumstances in each case, the nature of the crime, the manner in which it

was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances are relevant facts which would enter into the area of consideration.

Relying upon the decision of this Court in Sevaka Perumal vs. State of T.N. [(1991) 3 SCC 471], this Court furthermore held that it was the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed etc.

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18. Don M. Gottfredson in his essay on "Sentencing Guidelines" in "Sentencing by Hyman Gross and Andrew von Hirsch" opines:

"It is a common claim in the literature of criminal justice and indeed in the popular press that there is considerable "disparity" in sentencing. The word "disparity" has become a prerogative and the concept of "sentencing disparity" now carries with it the connotation of biased or insidious practices on the part of the judges. This is unfortunate in that much otherwise valid criticism has failed to separate justified variation from the unjustified variation referred to as disparity. The phrase "unwarranted disparity" may be preferred; not all sentencing variation should be considered unwarranted or disparate. Much of it properly reflects varying degrees of seriousness in the offense and/or varying characteristics of the offender. Dispositional variation that is based upon permissible, rationally relevant and understandably distinctive characteristics of the offender and of the offense may be wholly justified, beneficial and proper, so long as the variable qualities are carefully monitored for consistency and desirability over time.

Moreover, since no two offenses or offenders are identical, the labeling of variation as disparity necessarily involves a value judgment- that is, disparity to one person may be simply justified variation to another. It is only when such variation takes the form of differing sentences for similar offenders committing similar offenses that it can be considered disparate."

[Emphasis supplied]

The learned author further opines:

"In many jurisdictions, judicial discretion is nearly unlimited as to whether or not to incarcerate an individual; and bound only by statutory maxima, leaving a broad range of discretion, as to the length of sentence."

19. Kevin R. Reitz in Encyclopedia of Crime and Justice, Second edition "Sentencing guidelines" states:

"All guideline jurisdictions have found it necessary to create rules that identify the factual issues at sentencing that must be resolved under the guidelines, those that are potentially relevant to a sentencing decision, and those viewed as forbidden considerations that may not be taken into account by sentencing courts. One heated controversy, addressed differently across jurisdictions, is whether the guideline sentence should be based exclusively on crimes for which offenders have been convicted ("conviction offenses"), or whether a guideline sentence should also reflect additional alleged criminal conduct for which formal convictions have not been obtained ("non-conviction offenses").

Another difficult issue of fact-finding at sentence for guideline designers has been the degree to which trial judges should be permitted to consider the personal characteristics of offenders as mitigating factors when imposing sentence. For example: Is the defendant a single parent with young children at home? Is the

defendant a drug addict but a good candidate for drug treatment? Has the defendant struggled to overcome conditions of economic, social or educational deprivation prior to the offense? Was the defendant's criminal behavior explicable in part by youth, inexperience, or an unformed ability to resist peer pressure? Most guideline states, once again including all jurisdictions with voluntary guidelines, allow trial courts latitude to sentence outside of the guideline ranges based on the Judge's assessment of such offender characteristics. Some states, fearing that race or class disparities might be exacerbated by unguided consideration of such factors, have placed limits on the list of eligible concerns. (However, such factors may indirectly affect the sentence, since judges are permitted to base departures on the offender's particular 'amenability' to probation (Frase, 1997).)"

20. Andrew von Hirsch and Nils Jareborg have divided the process of determining sentence into stages of determining proportionality while determining a sentence, namely:

- 1. What interests are violated or threatened by the standard case of the crime- physical integrity, material support and amenity, freedom from humiliation, privacy and autonomy.*
- 2. Effect of violating those interests on the living standards of a typical victim- minimum well-being, adequate well-being, significant enhancement*
- 3. Culpability of the offender*
- 4. Remoteness of the actual harm as seen by a reasonable man.'*

20. The Hon'ble Supreme Court in the matter of **Pramod Kumar Mishra Vs. State of UP (2023) 9 SCC 810**, observed that punishment must

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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.

21. It has remained uncontroverted that the petitioners are not accused in any other case and that it was only an attempt to avail a subsidy. No loss had been caused to any person. Besides, the incident relates to the year 2015. The petitioners have already faced incarceration of protracted criminal proceedings for a period of nearly 10 years. The petitioners are farmers having a family to support and familial obligation to discharge. They have not indulged in any illegal act or conduct as may lead to an assumption against petitioners being a liability to the society.

22. Keeping in view the aforesaid principles, the present petition is accordingly partly allowed. While the judgment of conviction dated 20.10.2022 passed by the Judicial Magistrate First Class, Rohtak and judgment dated 02.09.2025, passed by the Additional Sessions Judge, Rohtak dismissing the appeal preferred by the petitioners are affirmed, the order of sentence dated 21.10.2022 is modified and the sentence awarded to the petitioners is reduced to the period already undergone by them.

However, the sentence regarding fine is maintained.

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- 23. The present revision petition stands partly allowed accordingly.
- 24. Pending application(s), if any, shall stand disposed of.
- 25. A copy of this order be placed on the file of the connected case.

19.12.2025

Sumit Gusain

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(VINOD S. BHARDWAJ)

JUDGE