

2026:PHHC:069489



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

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CRR 1998 of 2010

Date of Decision: 29.04.2026

Harish Kumar and others

...Petitioner (s)

Vs.

State of Punjab

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Ramneek Vasudeva, Advocate
for the petitioners.

Mr. Amit Rana, Sr.DAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioners have filed the present revision petition against the impugned judgement dated 16.07.2010 passed by the Court of Additional Sessions Judge-cum-P.O. F.T.C. and the judgement of conviction and order of sentence dated 05.06.2006 passed by the Court of Sub Divisional Judicial Magistrate, Anandpur Sahib, whereby, the petitioners were held guilty for the commission of offences punishable under Section 379 of IPC and were sentenced to rigorous imprisonment for one year each and to pay a fine of Rs.500/- each alongwith default stipulation.

2. Prosecution story in brief is that complainant Som Nath moved an application against the petitioners to effect that he was resident of Dher, Tehsil Anandpur sahib and was working as a Truck operator at Truck union, Nangal. He purchased a truck Tanker No. HP-20-5503 Model 1976 on 15.06.1998 from Harish Kumar son of Rup Lal

resident of village Kot, Tehsil Sri Naina Devi, Distt. Bilaspur (H.P.) for payment of Rs. 1,40,000/-on cash payment and received from Satish Kumar affidavit dated 15.05.1998 regarding purchase of the truck duly attested by notary. In the said affidavit Harish Kumar had given a statement regarding the receipt of entire sum. After purchase the said truck, he fell ill, on which account Harish Kumar became dishonest. On account of the illness he remained admitted to PGI from 30.06.1998 to 07.07.1998 and ever then he was not well till then and was undergoing treatment at PGI and on which account he remained mentally upset and the advantage of such conditions, on 18.08.1998 while he alongwith his brother Baldev Krishan in the said truck tanker at about 08.00 a.m. parked his truck on the road near Nangal Truck union and was sitting there, said Harish Kumar alongwith 2/3 other persons came to him and forcibly brought him out of the truck and took away the truck regarding which he moved a written complaint to ASI Des Raj who promised to take action against Harish Kumar. For 2/3 days he went on requesting ASI Des Raj but he did not take any action against Harish Kumar. On 21.08.1998 ASI Des Raj asked him to make payment of the truck and to obtain the vehicle as the affidavit dated 15.05.1998 that had been given by Harish Kumar not appeared to be genuine and that he will enquire about the same and if the affidavit was proved genuine then he will take action against Harish Kumar. Then on 22.08.1998 at about 06.00 p.m. at the Nangal Truck union in the presence of known persons including in the presence of Baldev Krishan and Surrender Kumar, he gave Rs.1,20,000/- to Harish Kumar and took back the truck No. HP -20-5503

and further obtained an affidavit duly attested by the notary from Harish Kumar on 22.08.1998 and Harish Kumar also gave him a receipt regarding receipt of money. After taking back the truck, he had to pay Rs. 1,30,000/- again to Harish Kumar and then taking both the documents, he met ASI Des Raj at police station several times and asked to take action against Harish Kumar but despite his request ASI Des Raj did not take any action and ASI Des Raj returned him the affidavit dated 15.05.1998 while saying that he has conducted the investigation of the said affidavit which was bogus one and so he was not to take any action against Harish Kumar and in this way Harish Kumar taking advantage of his mental disturbance has committed said cheating and theft and that action may be taken. On the said statement FIR was recorded against the petitioners and then investigation was conducted. Petitioners were arrested. Truck -tanker was taken into police possession, site plan of the place of incident was prepared, statements of the witnesses were recorded and other investigation was conducted and upon completion of the investigation petitioners were challaned under Section 379 IPC and the *challan* was presented in the Court.

3. After the presentation of *challan*, the petitioners were charge-sheeted for the offences punishable under Section 379 of IPC, to which, they pleaded not guilty and claimed trial.

4. In order to prove its case, the prosecution examined PW1 Som Nath, PW2 Baldev Krishan, PW3 Jiwan Kumar, Junior Assistant, PW4 Gurmit Singh S.P.(D), PW5 Munish Kumar and PW6 Rajinder Singh . Thereafter the evidence of the prosecution was closed by order.

5. After closure of the evidence, the statements of the petitioners were recorded under Section 313 Cr.P.C. and they denied all the incriminating evidence put to them and stated that they have been falsely involved in the present case. No evidence was led in defence.

6. At the very outset, learned counsel for the petitioners submits that he does not wish to challenge the judgement of conviction passed against the petitioners by the trial Court, however, some leniency may be shown while awarding the sentence on them. Even though, learned counsel for the petitioners has not challenged the judgements of convictions, still, this Court has considered the case on merits.

7. Learned State counsel submits that the petitioners do not deserve the concession regarding sentence and the present revision petition be dismissed.

8. I have heard learned counsel for the parties and perused the record carefully.

9. In the present case, the complainant Som Nath appeared as PW1 and had fully supported the case of the prosecution. His testimony was duly supported by PW2 Baldev Krishan. Both the prosecution witnesses were cross-examined at length, but their testimonies could not be shattered in any manner. The prosecution further examined PW3 Jiwan Kumar, Junior Assistant in the office of Deputy Commissioner, Una, who produced the record relating to Tanker number HP-20-5503 and stated that it was registered in the name of Harish Kumar. Then, Gurmit Singh, S.P. (D) was examined as PW4, who had conducted the inquiry and submitted the inquiry report Ex. PW4/A. Munish Kumar

PW5 deposed that he was working as a Transport agent at Nangal Truck Union on 18.08.1998 at 08.00 a.m. In order to collect the tax, he was standing near the committee office. Then Som Nath son of Gian Chand and his brother Baldev Krishan along with their truck HP-20-5503 Model 1976 were also standing near committee office. The said truck had been purchased by Som Nath from Harish Kumar on 15.05.1998 for a sum of Rs. 1,40,000/- and regarding which an affidavit was prepared in his presence and he had put his witness on the same. He had got attested the affidavit from the Notary and then on 18.08.1998 while he was present, then petitioners came to the committee office and took away the truck No.HP-20-5503 forcibly. PW6 Raja Singh proved the investigation in the present case. From the above referred evidence led by the prosecution, it is proved that the petitioners had committed the theft of truck which belongs to Som Nath and they were rightly held guilty for the commission of offence under Section 379 IPC. Even otherwise, I have carefully gone through the judgments passed by the learned trial Court and find that the same do not suffer from any infirmity, illegality, or perversity. Accordingly, the impugned judgments of conviction are ordered to be upheld.

10. Now adverting to the order on quantum of sentence, this Court cannot lose sight of the fact that the petitioners are facing the agony of trial/appeal since 09.12.1998, i.e., for the last more than 27 years. The sentences imposed on the petitioners were suspended by this Court on 01.09.2010 and in the last more than 15 years, they have maintained good conduct and have not misused the concession of

suspension of sentence in any manner. Even, the petitioners have undergone about 01 month and 16 days of actual custody out of total sentence of one year. Consequently, keeping in view the aforesaid mitigating circumstances, the sentence imposed on the petitioners are reduced to the period already undergone by them.

11. With the above modifications, the present revision petition is partly allowed and the impugned judgement dated 16.07.2010 passed by the Court of Additional Sessions Judge-cum-P.O. F.T.C. and the judgement of conviction and order of sentence dated 05.06.2006 passed by the Court of Sub Divisional Judicial Magistrate, Anandpur Sahib, are upheld, whereas, the sentence imposed on the petitioners is reduced to the period already undergone by them. However, the sentence of fine will remain the same.

12. Pending applications, if any, stand also disposed of, accordingly.

29.04.2026	(N.S.SHEKHAWAT)
amit rana	JUDGE
Whether reasoned/speaking	: Yes/No
Whether reportable	: Yes/No