
(2014) 03 P&H CK 0189
In the Punjab And Haryana At Chandigarh
Case No : CRA-S- 1173-SB of 2012 (O and M)

Gurcharan Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 20-03-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 173(2) 313 374(2)
Penal Code, 1860 (IPC) — Section 420 489B 489C

Citation : (2014) 03 P&H CK 0189

Hon'ble Judges : Mahavir S. Chauhan, J

Bench : Single Bench

Advocate : Kuldeep V. Singh Ahluwalia, for the Appellant; D.S. Virk, AAG, Punjab, for the Respondent

Final Decision : Dismissed

Judgement

Mahavir S. Chauhan, J.—Judgment of conviction and order of sentence dated 25.1.2012 passed by the learned Additional Sessions Judge, Barnala, convicting and sentencing the appellant to undergo imprisonment for 5 years besides payment of fine amounting to Rs. 1000/- and in default of payment of fine, to undergo further rigorous imprisonment for 6 months u/s 489C of the Indian Penal Code, 1860 (for short, "IPC") are under challenge in this appeal brought by convict Gurcharan Singh u/s 374(2) of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."). State is contesting the appeal.

2. Fact situation constituting the case of the prosecution is that the convict/appellant was found to have in his possession 37 counterfeit currency notes in the denomination of Rs. 1000/- each and 76 counterfeit currency notes in the denomination of Rs. 500/- each, which on examination were found to be fake.

3. After conclusion of investigation, a report in terms of Section 173(2), Cr.P.C., was presented before the jurisdictional Magistrate, who, in turn, committed the case to the Court of Session as the offences involved therein were triable exclusively by the Court of Session.

4. Learned trial Court on hearing the prosecution and the defence found grounds to exist to presume commission of offences punishable under Sections 420, 489B and 489C, IPC, by the convict/appellant and charged him accordingly. After conclusion of prosecution evidence, convict/appellant was examined u/s 313, Cr.P.C., and was called upon to enter upon his defence. He examined two witnesses in his defence.

5. On hearing the prosecution and the defence, learned trial Court came to the conclusion that the prosecution could not prove guilt of the convict/appellant punishable under Sections 420 and 489B, IPC, but it was able to prove it as regards offence u/s 489C, IPC, and, accordingly, convicted and sentenced the convict/appellant as herein aforestated.

6. Learned counsel for the appellant has stated at the very outset that the appellant does not contest the findings of conviction recorded by the learned trial Court but prays for leniency as regards the quantum of sentence on the plea that he is in advance stage of his life and is the first offender and that he has already faced the agony of investigation and trial since registration of the first information report on 18.10.2010.

7. The submission put up on behalf of the appellant as regards quantum of sentence seems to be an reasonable. The appellant has been facing agony of investigation and protracted trial and consequent proceedings since the year 2010 and has also reached the ripened stage of his life. As per the custody certificate filed on behalf of the respondent-State, the appellant has already served sentence of 3 years 6 months and 14 days, including remission, out of the total sentence of 5 years awarded to him by the trial Court. In the circumstances, the judgment of conviction dated 25.1.2012 is maintained and affirmed but order of sentence is modified and the substantive sentence awarded to the appellant is restricted to the period already spent by him in custody. However, the sentence as regards fine and default clause is maintained. With the aforesaid modification in the order of sentence, the appeal fails and is dismissed.