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**(2008) 02 P&H CK 0349**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Criminal Revision No. 158 of 1996

Dwarka Dass

APPELLANT

Vs

State of Punjab

RESPONDENT

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**Date of Decision:** Feb. 25, 2008

**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 408

**Citation:** (2008) 3 RCR(Criminal) 62

**Hon'ble Judges:** Kanwaljit Singh Ahluwalia, J

**Bench:** Single Bench

**Advocate:** G.K. Mann, for the Appellant; Amit Chaudhary, A.A.G., Punjab, for the Respondent

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**Judgement**

Kanwaljit Singh Ahluwalia, J.

Dwarka Dass was named as an accused in case FIR No. 361 dated 24.12.1984 registered at Police Station Sadar, Gurdaspur u/s 408 IPC.

2. The case of the prosecution is that the petitioner had embezzled an amount of Rs. 2411.25 in his capacity as Secretary of Co-operative Agriculture Service Society of Village Tung. It is stated that it came to the notice of Vigilance Department that in the year 1981, accused Dwarka Dass and Kartar Singh were working as Secretary and Salesman of Co-operative Agriculture Service Society of Village Tung and it is stated that the interest which accrued to the loanes was retained by the petitioner and was not deposited in the Bank.

3. Prosecution examined various witnesses. The learned Trial Court has rightly concluded that the offence u/s 408 IPC is made out and sentenced the petitioner to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs. 2,000/-, in default of payment of fine to further undergo rigorous imprisonment for one month.

4. Aggrieved against the same, the petitioner has filed an appeal and the same was dismissed by the Court of Additional Sessions Judge, Gurdaspur. It has been contended by Ms. G.K. Mann that the petitioner was taken into custody on 15.03.1996 and was ordered to be released on bail on 31.05.1996. Thus, as per the counsel, the petitioner has undergone about two months and 16 days of his actual sentence. The order of admission of revision petition on 31.05.1996 reveals that the petitioner had deposited the entire amount of embezzlement along with interest amounting to Rs 5204/-. Since in the present case occurrence pertains to the year 1981 and the FIR was lodged in the year 1984, period of 26 years is going to lapse, no useful purpose would be served if the petitioner is sent behind the bars. In the Trial Court judgment age petitioner is recorded as 42 years.

5. As per the counsel for the petitioner, the petitioner is aged about 60 years. Taking into consideration the protracted trial and the fact that the amount of embezzlement stand deposited along with interest and the petitioner has undergone imprisonment of two months and 16 days out of his actual sentence of six months, ends of justice would be met if sentence of the petitioner is reduced to the period already undergone.

With this modification, the present revision petition is disposed of.