

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.REV.P. 328/2009**

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Reserved on: 2nd May, 2012

Decided on: 10th July, 2012

TAJINDER SINGH

..... Petitioner

Through: Mr. Khushbir Singh, Advocate with
petitioner in person.

versus

STATE

..... Respondent

Through: Mr. Mukesh Gupta, APP with SI
Surender Kumar PS Saraswati Vihar.

Coram:

HON'BLE MS. JUSTICE MUKTA GUPTA

1. By the present petition the Petitioner seeks setting aside of the judgment dated 19th May, 2009 passed by the learned Additional Sessions Judge upholding the judgment passed by the learned Metropolitan Magistrate. Learned Metropolitan Magistrate vide judgment dated 14th December, 2005 convicted the petitioner for offence punishable under Section 420 IPC and vide order on sentence dated 29th May, 2006 the Petitioner was sentenced to undergo Rigorous Imprisonment for six months.

2. Learned counsel for the Petitioner contends that the impugned judgment and order of the learned Courts below are erroneous on facts and law. Learned Appellate Court has overlooked the evidence placed on record. It is stated that the learned courts below have failed to appreciate the fact that there are contradictions in the testimonies of prosecution witnesses and hence the same are unreliable. The impugned judgment of the trial court is based upon presumption. The witnesses have deposed that the amount was given through third person Hari Ram who has not been examined by the

prosecution. The prosecution in the present case has not been able to prove its case beyond reasonable doubt against the Petitioner. Thus, the impugned judgments are liable to be set-aside

3. Per contra learned APP for the State contends that the impugned judgment suffers from no illegality. The prosecution witnesses have consistently deposed against the petitioner. PW3 has clearly stated that on the pretext of arranging a government job, he handed over Rs. 13,000/- to the petitioner. He was even taken to Ajmer and Jaiselmer by the petitioner where he was informed that he had been selected in CRPF but formalities were to be completed in Delhi. PW5 and PW6 have corroborated the version of PW3. Thus there is evidence beyond reasonable doubt against the petitioner. Learned trial court and the learned Appellate Court have thus correctly invoked the provisions of section 420 IPC. The present petition has no merit and is liable to be dismissed.

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

5. Briefly the case of the prosecution is that in the month of March 1990, the complainant Amrit Lal, PW3 went to village Taronda Bharatpur, Rajasthan where his in-law were residing and met the Petitioner. The Petitioner told Sh. Amrit Lal that he is the General Secretary and he can get a government job arranged for him in any government department. He stated that some money would be charged for the same. On the pretext of arranging a government job, the Petitioner dishonestly induced and cheated the complainant to deliver Rs. 13,000/-. A complaint was made by the complainant Amrit Lal on which an endorsement was made by SI Sunil Vashisth vide DD entry No.19A at 6.00 P.M. on 1st October, 1990 and subsequently FIR No. 377/1990 under Section 420 IPC was registered.

After completion of the investigation charge-sheet was filed. After recording the statement of prosecution witnesses and statement of accused under Section 313 Cr.P.C. the learned Trial Court convicted the accused and sentenced him as mentioned above. Aggrieved by the impugned judgment and order on sentence the accused preferred an appeal. Learned Additional Sessions Judge dismissed the appeal vide judgment dated 19th May, 2009 and upheld the judgment passed by the learned Trial Court.

6. PW3, Amrit Lal the complainant has stated that in the month of March, 1990 when he went to his in-laws house at Taronda, Bharatpur, Rajasthan, his in-laws introduced him to the Petitioner. He further stated that accused told him that he is the General Secretary and he can get arranged a government job in any government department and he further told him that some money would be charged for the same. After 4/5 days he returned back to Delhi with the address of Mahendra Park, Rani Bagh which was given to him by the Petitioner. The victim reached at the said address which was given by the Petitioner and there he noticed that 2/4 persons were present along with Petitioner. He further stated that accused assured him that he would get arranged a job of constable in CISF/CRPF department in Ajmer. He further categorically stated that besides him 4/5 persons were also taken to Ajmer and then to Jaisalmer. The Petitioner told him that he had been selected and rest of the work would be done at Delhi because Director General is well known to him. Thereafter, PW3 gave Rs. 13,000/- to the accused as the accused induced him to deliver the same. He further deposed that neither did he get a job nor did the accused return his money. Thereafter, he lodged a complaint in PS Rani Bagh. This witness further

stated that accused also cheated Badan Singh, Bacchu Singh, Samay Singh, Hari Ram etc. on the pretext of arranging a government job.

7. PW5 Ram Charan is the public witness who has deposed that in the month of March, 1990, he met accused in the village of his in-laws, Taronda, District Bharatpur, Rajasthan. The accused was introduced to him by one person residing in that village. After 5/7 days accused again came at his in-laws village and then came to his village. The accused stated to him that he can get a job for him in Delhi in police. On the assurance of accused after one week he visited Delhi and brought Rs. 52,000/- for getting the job for his son. In Delhi he met Amrit Lal and Badan at the house of the accused. They also handed over Rs. 13,000/- each on the assurance of accused for getting job. Thereafter, accused kept on making calls. He called them at Mathura but he did not reach there. Thereafter he again called them at Ajmer but he did not reach there. Accused failed to get job for his son. Accused failed to repay the amount of Rs. 52,000/- which he took for getting the job. The accused neither arranged the job for his son nor returned the money. Ultimately, he lodged a complaint with the police. The accused has not paid a single penny to the said witness. This witness has not been cross-examined by the learned counsel for the Petitioner.

8. Similarly, PW7 Badan Singh has stated that he had given Rs. 13,000/- for himself and Rs. 13,000/- on behalf of his brother to accused for getting a job. For the said purpose Diwan Singh and PW-3 Amrit Lal visited the house of the accused.

9. A perusal of the testimonies of the witnesses show that the accused/petitioner had dishonestly induced and cheated the complainant and taken Rs. 13,000/- from him, he has also cheated other people and taken

Rs.52,000/- from PW5 Ram Charan and Rs. 13,000/- from PW7 Badan Singh for arranging a government job. The accused/Petitioner had also taken the victims to various places such as Ajmer, Jaisalmer and Dosana and brought them back to Delhi but could not arrange a job for them. It may be noted that the contradictions as pointed out by the learned counsel for the petitioner are not material contradictions and do not dent the otherwise clear and cogent case of prosecution. Learned counsel for the Petitioner was given sufficient opportunity to cross-examine the witnesses but either they were not cross-examined or nothing material could be elicited from them.

10. It may be noted that in case where there is delivery or destruction of any property or attestation or destruction of any valuable security resulting from the act of the person deceiving Section 420 IPC comes into operation. It must be proved that the complainant and other victims parted with his property acting on the representation which was false to the knowledge of the Petitioner and that the Petitioner had a dishonest intention from the outset. In the present case the testimony of the prosecution witnesses clearly proves that the Petitioner deceived the complainant and other victims with dishonest intention. Learned Trial Court as well as learned Appellate Court has thus correctly invoked the provisions of the section. Hence, I find no infirmity in the impugned judgments. The present petition is dismissed being devoid of any merit. The bail bond and the surety bond are cancelled. The Petitioner will undergo the remaining sentence.

(MUKTA GUPTA)
JUDGE

July 10, 2012
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