

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1285-2007

Date of decision : 16.09.2015

Mohinder Pal and another
...Petitioners
Versus
State of Haryana
...Respondent

CORAM : HON’BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. H.S. Gill, Sr. Advocate,
with Mr. Nitin Rampal, Advocate,
for the petitioner.

Mr. Arun Luthra, AAG, Haryana.

JITENDRA CHAUHAN, J.

The present revision petition has been filed challenging the judgment dated 02.08.2007, passed by the learned Additional Sessions Judge, Kaithal, (for short, 'the appellate Court'), whereby, the judgment of conviction dated 14.09.2005, passed by the learned Judicial Magistrate 1st Class, Kaithal, (for short, 'the trial Court') has been affirmed, whereas, the order of sentence has been modified to the following extent:-

Conviction under Section	Sentence awarded by the trial Court	Sentence awarded by the Appellate Court
Section 419 IPC	RI for 02 years	RI for 01 year
Section 120-B IPC	RI for 06 months	RI for 03 months

However, both the sentences were ordered to run concurrently.

Brief facts of the case find mention in para No.2 of the judgment rendered by the first appellate Court, which read as under:-

“It is the version of the prosecution that on 28.10.1996, a complaint made by Superintendent of Examination of the RKSD College, Kaithal was received in the police station, in which he mentioned that there has been impersonation in the examination hall of S-II, RKSD College, Kaithal. He pleaded that while checking the roll numbers, it was found that on the seat allotted to roll number 14133 of B.A. Part-I English (B), the real examinee Mr. Jail Singh was not sitting and some other student was sitting who disclosed his name as Mohinder Pal. He was caught red handed and it was prayed that case be registered and action be taken. On the basis of complaint Ex.PD, formal FIR was registered. Investigation commenced. Site plan of the place of occurrence was prepared. The photograph of the person who was appearing in the examination in place of actual examinee, the question paper and the proceedings of

the Superintendent, were taken into possession vide recovery memo Ex.PW5/B. The accused was formally arrested and their personal search were conducted. Statements of witnesses u/s 161 Cr.P.C. were recorded. After completion of investigation, challan was filed in the court.”

In this background, the accused were charged under Sections 419/120-B IPC, to which they pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined as many as eight witnesses.

When examined under Section 313 Cr.P.C., the accused denied all allegations and pleaded innocence. However, no evidence was lead in defence.

After hearing learned counsel for the parties and perusing the evidence available on record, the learned trial Court convicted and sentenced the petitioners.

Feeling aggrieved, the petitioner preferred an appeal before the learned Appellate Court, which affirmed the judgment of conviction, whereas, the order of sentence was modified as detailed at the outset of this judgment. Hence the present criminal revision petition, which was admitted by this Court on 09.08.2007.

In the present case, accused Mohinder Pal, was caught red handed impersonating Jail Singh, the original examinee, taking the exam of English Paper B, for B.A. Part I examination. Accused-Jail Singh had not come to the examination centre for taking the examination. Thus, it is proved that Mohinder Pal was appearing in place of Jail Singh, with the consent of Jail Singh. Non-examination of the Investigating Officer is also not fatal as the prosecution case is established by the oral and documentary evidence on record. The accused have been identified by the witnesses.

Therefore, this Court is not inclined to disturb the concurrent findings recorded by the learned Courts below in the matter of conviction and the same is hereby maintained.

However, as far as the sentence part is concerned, the incident took place on 28.10.1996 and the petitioners have been facing the agony of protracted trial for the last about two decades. Both of them have now married and are having small children. One is employed in a private firm and the other is running a grocery shop. The learned counsel for the petitioners, thus, prays for a lenient view in the matter of sentence.

Keeping in view the mitigating circumstances enumerated above, this Court is inclined to take a lenient view as far as the quantum of sentence is concerned. Accordingly, the sentence of imprisonment awarded under Section 419 IPC is

reduced from 01 year rigorous imprisonment (as reduced by the appellate Court) to six months rigorous imprisonment. The petitioners are stated to be on bail. They be taken into custody forthwith, to undergo the remainder of the sentence. Their bail bonds shall stand forfeited.

This revision petition stands disposed of accordingly.

16.09.2015

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(JITENDRA CHAUHAN)
JUDGE

Note : Whether to be referred to Reporter? No