

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Revision No. 373 of 2007

Date of decision : 22.07.2015

Azad Singh

..... Petitioner

versus

State of Haryana

... Respondent

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the digest?

**Present: Mr. R.A. Sheoran, Advocate
for the petitioner**

Mr. Gurdas Singh Salwara, DAG Haryana

ANITA CHAUDHRY, J.

This revision is directed against the judgment dated 30.01.2007 passed by the Additional Sessions Judge (Fast Track Court), Bhiwani who dismissed the appeal filed by the petitioner and maintained the order passed by the Sub Divisional Judicial Magistrate Charkhi Dadri.

The trial Magistrate had convicted the petitioner under Section 419 Cr.P.C. to three years rigorous imprisonment alongwith fine of ₹ 5000/- and rigorous imprisonment for 2 years alongwith fine of ₹ 5000/- under Section 177(II) IPC.

The facts may be narrated first to have the factual score.

Satbir Singh appeared before the Sub Divisional Judicial Magistrate, Charkhi Dadri and made a complaint which in turn was forwarded to the police for registration of the present FIR. Earlier FIR

No. 133/1993 was registered against Satbir Singh under the Excise Act at Police Station City Dadri. The accused failed to appear and his warrants were issued. Satbir appeared in the Court and sought withdrawal of the warrants as he had never been arrested in any case nor had furnished bail in the Court. The applicant mentioned that he suspected his co-villager Azad son of Jag Ram to have used his name and thereby concealed his own identity. The police investigated into the complaint and arrested Azad Singh and Hawa Singh.

Consequent upon the arrest, Azad Singh and Hawa Singh were produced in the Court and their specimen signatures were taken for comparison. Both of them refused to give their signatures. The police also arrested one Mehar Chand as it suspected that all the accused had hatched the conspiracy and thereby managed to conceal the identity of Azad Singh who was the real offender in FIR No. 133 and had given his name as Satbir son of Jai Chand.

After completion of investigation, challan was presented. Charge was framed under Section 419, 120-B, 177(II) and 199 IPC.

The prosecution examined Satbir Sigh, the police official and Reader to the Magistrate. The accused in his statement under Section 313 Cr.P.C. took a defence of complete denial, however, he failed to lead any evidence in defence.

The trial Court after eschewing the evidence came to the conclusion that accused Azad impersonated himself as Satbir and gave a wrong name. It was found that Hawa Singh, Lamberdar intentionally identified surety Mehar Chand, however, no evidence

could be led with respect to the conspiracy by all the accused, therefore, the trial ended in conviction of accused Azad under Section 419 and Section 177(II) IPC. Hawa Singh died during the pendency of the appeal. Proceedings against him were dropped. The appeal by the accused also failed to find favour with the Court and the appeal was dismissed.

The submission made on behalf of the petitioner is that the appellant was under influence of liquor and gave a wrong name to the police and bail bonds were also filled with the wrong name and the fact was that he had given his alias name and mistake was by the police official. The counsel contends that petitioner has faced protracted trial and lenient view be taken and benefit of probation be given.

Learned State counsel supports the judgment and has urged that the crime was detected only when the accused who had given his name as Satbir Singh son of Jai Chand failed to appear in the Court in the case filed under the Excise Act and it was when real Satbir appeared before the Court and apprised the Court of the fact, the matter was reported to the police by the Court official. Counsel had contended that no mercy can be shown when the petitioner was brazen and bold enough to present bail bonds in the Court and did not fear the law.

Perusal of the evidence reveals that FIR No. 133 dated 11.5.1993 was registered and a person was arrested who revealed his name as Satbir Singh son of Jai Chand. Bail bonds in the same name were submitted. The accused failed to appear and warrants of

arrest were issued and ultimately warrants of arrest were issued. Satbir son of Jai Chand appeared in the Court and moved an application stating that he had never appeared in the Court nor had been arrested nor had furnished any bail bonds. He suspected that Azad son of Jag Ram of his village could be the culprit. Accused had been produced in the Court of Sh. A.K. Raghava the then S.D.J.M. Charkhi Dadri. Instead of filing a criminal complaint under Section 195(1)(b)(ii) Cr.P.C. the application was sent to the police and the present FIR was registered. Challan against Azad, Mehar Chand and Hawa Singh Lamberdar were filed. The allegations against Hawa Singh Lamberdar were that he had identified Mehar Chand who had stood surety in FIR No. 133 of 1993. A complaint was sent to the police who investigated into the matter and filed the challan against the accused.

The star witness of the prosecution was Satbir who named Azad and it led to the registration of the FIR. In order to get away with the crime, the accused came up with a clever defence that his alias name was Satbir and it was Mahender Singh Head Constable who wrongly mentioned his name only as Satbir with a view to shield himself.

The prosecution had examined Mohinder Singh Head Constable PW-2. He had stated that he had arrested Satbir Singh in FIR No. 133/1993 and had produced him in the Court but when he was taken to the Court it was found that the particulars did not match. The matter was investigated and it came to light that real

culprit was Azad Singh. Thereafter, he went to arrest Azad Singh.

No evidence in defence was led by the accused. The trial Magistrate was of the view that it was a case of impersonation. It found that the accused had committed the offence during the proceedings of the criminal case. It was observed that the accused had wrongly given his name to a public servant and had furnished a wrong name of his father and, thus, had introduced the details of some other persons with a view to take an advantage and get off the hook. The Court had also observed that the Court concerned should have proceeded under Section 195(1)(b)(ii) and could have held an enquiry under Section 340 Cr.P.C. but since that procedure was not valid, therefore, an acquittal was recorded with respect to some Sections. The trial Court recorded conviction of the accused under Section 419 IPC and Section 177(II) IPC. The accused had furnished false information to a public servant knowingly and having reason to believe that they were incorrect and made himself liable. The trial Court had exhaustively dealt with each aspect and recorded conviction and the Appellate Court has affirmed the order and I see no infirmity.

Learned counsel for the petitioner had urged in the alternative that the petitioner be given the benefit of probation or he be sentenced to a sentence already undergone by him. It was urged that petitioner had remained in custody for 3 months and fine had been paid. It was urged that the petitioner was just 22 years old when the occurrence took place and had faced trial for 22 years and a lenient view be taken.

The act of the petitioner had led to the arrest of Satbir who was not involved in any case. It would have caused a lot of harassment and trauma to him and his family. Not only that, the petitioner had furnished false information to a public servant without fear of law or the Court. The trial Court has already taken a lenient view and no further concession can be granted. The sentence should commensurate with the offence committed. It is not a fit case to grant probation. The sentence is maintained. The petitioner is on bail. He shall surrender before CJM Bhiwani within three weeks to undergo the remaining part of sentence. Copy of the order be sent to the Court concerned. In case the petitioner fails to surrender, CJM Bhiwani would initiate proceedings to arrest the petitioner.

July 22, 2015

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**(ANITA CHAUDHRY)
JUDGE**