

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No. 618 of 2007 (O&M)

Date of decision : September 09, 2015

Sarabjit Kaur,

..... Petitioner

v.

State of Punjab,

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Mohd. Yousuf, Advocate
for the petitioner.

Mr. APS Gill, AAG Punjab

1. **Whether Reporters of Local Newspapers 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 ?**

Ajay Tewari, J (Oral)

By way of this petition, the petitioner has challenged her concurrent conviction under Sections 420, 465, 471, 468 of the IPC, and Section 12 of the Indian Passport Act.

Allegations were that the petitioner tried to pass off her nephew as her minor son so as to get a passport for him. The fraud was detected on a complaint made by one Gurdev Singh and on verification of the school leaving certificate of the minor, it transpired that the same had not been issued by the school and was a forgery.

Counsel for the petitioner has argued that there is no person who has deposed that it was the petitioner who submitted the documents of

the minor or signed the passport application form or executed the affidavit and without this link evidence, the conviction of the petitioner cannot be sustained.

Learned AAG Punjab has had to accept that there is no person who has deposed that it was the petitioner who signed the passport application form or had submitted the application or had executed the affidavit. He has, however, pointed out that the original ration card of the petitioner's family has been placed on record and in that ration card the minor is shown to be the son of the petitioner. As per him, this fact would constitute the necessary link evidence.

In my opinion, the argument of counsel for the petitioner cannot be brushed aside. No doubt, there is a passport application form stated to be signed by the petitioner, as also an affidavit alleged to have been executed by her but there is no positive evidence to show that the petitioner had actually signed that application form or had executed the affidavit. It deserves mention here that the passport was applied for through one East West Agency. Had the prosecution produced some body from that Agency who had deposed that it was the petitioner who had filled up the passport application form it would have been a separate story. Similarly, had the Notary Public who had attested the affidavit been produced and he had deposed that it was the petitioner who had executed the affidavit it would have been a different story but in the absence of any such evidence, the mere fact that the ration card of the petitioner reflects the minor to be her son cannot be said to have set at rest all doubts with regard to her involvement in attempting to get a passport for that minor fraudulently. In

the circumstances, the benefit of this doubt has to go to the petitioner.

Consequently, this revision petition is allowed, the impugned judgments/order passed by the Courts below are set aside, and the petitioner is acquitted of the charge framed against her.

September 09, 2015

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**(AJAY TEWARI)
JUDGE**