

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No.1468 of 2015 (O&M)
Date of Decision: 16.07.2015

Jagtar Singh @ Mindi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE R.P. NAGRATH

- 1. *Whether Reporters of the 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. S.S. Deol, Advocate
for the petitioner.

Mr. Gurveer Sidhu, AAG, Punjab
for the State.

R.P. Nagrath, J. (Oral)

Learned counsel for the petitioner submits that he has not been able to collect the information with regard to the fact that Sarabjit Singh was arrested or not. Similar is the submission made by learned State counsel.

The petitioner has challenged the concurrent findings of conviction recorded by the Courts below under Section 419, 420, 193 of the Indian Penal Code on the charge of the petitioner impersonating as Balkar Singh to furnish surety bonds for release of

Sarabjit Singh in FIR No.25 of 1990. Similarly, Ajaib Singh, Nambardar the attesting witness of the surety bonds was also a fake person. Jarnail Singh @ Jaila co-accused impersonated as Ajaib Singh as an attesting witness. Jarnail Singh was also convicted by the trial Court but appeal against conviction was filed only by the petitioner.

Learned counsel for the petitioner submits that Jarnail Singh aforesaid had died and, therefore, the challenge to the judgment of conviction was not made by him. The Courts below have meticulously analysed the evidence produced in support of the charge for appreciating the evidence on the question. The Appellate Court observed as under:

“.....Another important witness from the point of view of the prosecution namely Kuldip Singh, Clerk of Sh. Ashok Kumar Upadhyaya, Advocate and likewise Harnek Singh son of Shingara Singh were also examined as PW-6 and PW-7 because through the statements of these two witnesses, prosecution established the identity of accused Jagtar Singh and his associate Jarnail Singh, who impersonated as Balkar Singh son of Kehar Singh and Ajaib Singh Nambardar.....”

The allegation against the petitioner was also that he attached fake and forged *jamabandi* in support of the soundness of the surety.

When the accused in FIR of the year 1990 absented,

notice was issued to the surety and it was reported that no such person was residing at the address furnished in the surety bonds. Kuldeep Singh, Clerk of Sh. Ashok Kumar Upadhaya, Advocate through whom the surety bonds were presented for release of co-accused Sarabjit Singh appeared as PW6. The learned Appellate Court further observed as under:

“.....Kuldeep Singh stated that one relative of accused Sarabjit Singh namely Harnek Singh came to the court complex for getting this accused released on bail. He came to the court complex along with a person and a Nambardar and requested him to fill up surety bonds. Thereafter, both these persons who alleged to be Balkar Singh Nambardar Ajaib Singh showed him jamabandi and identity card following which he did the needful. He along with all these persons submitted the surety bonds in the court, original of which are already exhibited as Ex.PW5/B and Ex.PW5/C which are in his hand. Both the accused present in the court who came to be known as Jagtar Singh and Jarnail Singh signed those surety bonds while impersonating as Balkar Singh and Ajaib Singh Nambardar. He came to know about all this later on when matter got flared up that some persons are in the habit of submitting fictitious surety bonds by impersonating. It was at this occasion when he came to know that those two persons who even earlier used to

come to him were not actually Balkar Singh and Ajai Singh Nambardar, rather both of them were Jagtar Singh and Jarnail Singh @ Jaila. Both these accused present in the court were the same persons who volunteered to tender surety bonds under fake names. In this regard Harnek Singh son of Shingara Singh, who happens to be relative of accused Sarabjit Singh son of Iqbal Singh of another case also deposed that since above said Sarabjit Singh was involved in several cases and he was also pulling on well with his family members, therefore, he used to pursue his case at the insistence of family members of said Sarabjit Singh. He got him released him on bail in criminal case pertaining to FIR No.25 of 1990 under Section 379 and 411 IPC registered at PS Div. No.2. When he came to the court for getting him released and approached defence counsel Sh. A.K. Upadhaya, Advocate, he found his Clerk Kuldip Singh in company of two persons, one of whom disclosed himself to be Ajai Singh, Nambardar and another to be Balkar Singh son of Kehar Singh, both residents of Village Kasaband. Somehow or the other when said clerk Kuldip Singh disclosed the matter regarding furnishing of surety bonds in respect of accused Sarabjit Singh, then both of those persons became ready to be surety for said accused, in return of Harnek Singh paying him ₹ 800/- in all. However, deal

was finalized for ₹ 400/-. Thereafter, above said Kuldip Singh filled their surety bonds and accused Jagtar Singh signed the same while impersonating as Balkar Singh son of Kehar Singh whereas another person Jarnail Singh @ Jaila impersonated as Nambardar Ajaib Singh. Even this witness also specifically identified both the accused present in the court facing this trial who mislead the court for getting released his relative Sarabjit Singh on bail. Before concluding this witness specifically deposed that he has seen both these persons in company of Kuldip Singh on several occasions earlier as well and later on he came to know that they were in the habit of furnishing fake surety bonds in various courts. This is the entire oral as well as documentary evidence which was led in this case.....”

Learned counsel for the petitioner due to the limited scope of intervention of this Court in its revisional jurisdiction against concurrent finding of conviction recorded by appropriate appreciation of the evidence, has not challenged the conviction on merits and confined his arguments only qua the quantum of sentence.

I have heard learned counsel for the petitioner and learned State counsel on the questions of sentence and also perused the records.

The maximum sentence awarded to the petitioner for offence under Section 420 IPC was to undergo Rigorous

Imprisonment for one year and to pay fine of ₹ 200/-, in default of payment of fine to further undergo Rigorous Imprisonment for one month.

As per the custody certificate dated 21.05.2015, the petitioner has undergone about seven months of imprisonment till date.

In the circumstances of the case, I find that the imprisonment which the petitioner has already undergone should be considered sufficient imprisonment but the fine imposed needs to be increased. The period of sentence awarded to the petitioner under Section 420 IPC is reduced to the period already undergone but the fine is increased to ₹ 5,000/- and in default of payment of fine, to further undergo Rigorous Imprisonment for three months. The rest of the sentences including the imposition of fine for other offences and the default clause are maintained.

With the aforesaid modification in the period of sentence and increase in the amount of fine under Section 420 IPC and the default clause, the instant revision is dismissed on merits.

(R.P. Nagrath)
Judge

16.07.2015
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