

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 1763 of 2015 (O&M)

Date of decision: 22.07.2015

Balwinder Singh

..... Petitioner

Versus

State of Haryana

..... 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. Gaurav Chopra, Advocate
for the petitioner.

Mr. S.S. Pannu, DAG, Haryana.

R.P. NAGRATH, J.

The petitioner sought admission to Post Graduate Diploma in Computer Application (PGDCA) in Kurukshetra University during the session 2003-04. Alongwith his application he attached detailed mark-sheet of B.A. Part-III examination purportedly issued by Controller of Examination, University of Delhi. He appeared in the examination held in May, 2004 under Roll No. 89480 but result was declared as re-appear in five papers except 6th paper of the practical.

2. Subsequent to that a complaint was received in the University that the petitioner has sought admission on the basis of fake qualification certificates. Copies of Matriculation and B.A. Part-III examination certificates as submitted by the petitioner at the time of his admission were sent to the Secretary, Central Board of Secondary Education (CBSE), New Delhi and Controller of Examination, Delhi University for verification. Assistant

Secretary, CBSE, Ajmer sent communication that the Matriculation certificate (AISSE-1996) submitted by the candidate was not genuine. Report from the Controller of Examination, Delhi University was yet to be received but on the basis of report from the Assistant Secretary, CBSE, FIR was registered on the complaint of Assistant Registrar of Kurukshetra University.

3. During investigation verification report with regard to detailed mark-sheet of B.A. Part-III from Delhi University was obtained and the same was also found to be fake. Charges against the petitioner were framed under Sections 420, 467, 468 and 471 of the Indian Penal Code (IPC). Since there was no direct evidence of commission of forgery by the petitioner himself, learned trial Court held the petitioner guilty only under Section 471 IPC for having fraudulently used the forged documents as genuine and knowing or having reasons to believe the fake documents to be genuine. So, for rest of the offences the petitioner was acquitted.

4. Learned trial Court awarded the sentence to the petitioner to undergo rigorous imprisonment for two years and to pay fine of ₹ 5000/-, in default of payment of fine to further undergo rigorous imprisonment for 3 months under Section 471 IPC. The conviction of petitioner and the punishment awarded by the trial Court was maintained by learned Appellate Court.

5. The petitioner has filed the instant revision to challenge the concurrent findings of conviction recorded by the Courts below.

6. I have heard learned counsel for the petitioner, the State counsel, perused judgments of both the courts below and also the record.

7. Ex. P-1 is the application form submitted by the petitioner to Kurukshetra University for seeking admission in PGDCA course. In this form the petitioner mentioned having obtained the certificate of passing Matriculation examination from CBSE with Roll No. 6134460 with the year of passing as 1996. He also mentioned having passed B.A. Part-III from Delhi University with Roll No. 3891118 in the year 2001. Copies of those certificates attached with the application are mark 'A' and 'B' respectively.

8. PW-5 EASI Satish Kumar stated that during investigation the petitioner produced before him one I-card Ex. PW-5/A and copy of B.A. Part-III certificate Ex. PW-5/B, which were taken into possession vide memo Ex. P-4. I-card was issued by the Kurukshetra University whereas PW-5/B is the mark-sheet of B.A. Part-III containing total marks obtained in B.A. Part-I and B.A. Part-II as well. This bears Roll No. 3891118.

9. The evidence for establishing that these certificates of qualifications, on the basis of which the petitioner sought admission are proved to be forged documents. Original record was brought by PW-4 Jai Bahadur, Assistant in the School of Open Learning, University of Delhi with regard to mark-sheet of B.A. Part-III. Certificate Ex. PW-5/B pertains to the examination held by Delhi University in the year 2001. PW-4 stated that there was no such series of roll number in the year 2001 as mentioned

in the certificate Ex. PW-5/B. The series of roll number for the annual examination was 6380012657951 and for the supplementary examination it was 17300402125545. In this regard he also furnished verification report Ex. PW-4/B before the police. In cross-examination the witness stated that he cannot say if PW-5/B is forged and that it could also be genuine. Anyhow, the petitioner has not been able to bring any evidence for suggesting that this certificate Ex. PW-5/B was in fact issued by the University containing serial number and name of the petitioner as mentioned in the certificate upon which he relied for his admission.

10. PW-10 Kokta Singh @ Pala, Assistant, CBSE, Ajmer stated that the Matriculation certificate purported to be issued by the CBSE with Roll No. 6134460 mentioned in the certificate was allotted to one Ashwani Kaushik and not to the petitioner. Nothing has appeared on record in cross-examination of the witness or anywhere else that this certificate relied upon by the petitioner for his admission was genuine.

11. There was proper analysis of evidence by learned courts below for coming to the conclusion holding guilt of the petitioner under Section 471 IPC. The relevant discussion by the Appellate Court to this evidence is as under:-

“38. To prove this fact, the prosecution had relied upon the testimony of PW4 an official of Open University of Delhi. The PW4 in his examination-in-chief had supported the prosecution case by deposing that in the year 2001 in the main

examination the series of roll number was 63800/2657951 and in supplementary examination 17300/02125545. The series deposited by PW4 did not match with series mentioned on Ex.PW5/B.

41. *Another material witness of the prosecution was PW10 Kokta Singh. He was an official of CBSE. The PW10 in his examination-in-chief had categorically deposed that he had brought the original record pertaining to document Ex.PW10/A and that as per record of CBSE, roll No.6134460 was allotted to a candidate named Ashwant Kaushik in the year 1996. This was the same number which found mention on the matriculation certificate submitted by the appellant/accused with Kurukshetra University, Mark-B. However in his cross-examination, the PW10 deposed that he had not prepared the record and that Ex.PW10/A did not bear his signature. The PW10 also deposed that he was never approached by the police but as per PW10, he maintains the relevant record in the office.*

42. *As far as the testimony of PW10 is concerned, the PW10 was an official witness and he had deposed, on the basis of record maintained by CBSE in usual course of its business. The record of CBSE is official record and great sanctity is*

attached to it. In my opinion, the presumption of genuineness of this record should be drawn and otherwise also the PW10 had duly proved the document Ex.PW10/A and also the fact that the roll number was not issued in the name of appellant/accused.”

12. There is limited scope of intervention by the revisional Court unless it is shown that some material evidence was ignored or there has been misreading of evidence. When the matter was listed on 14.05.2015, learned counsel for the petitioner also did not challenge the conviction of the petitioner on merits and confined his arguments only qua the quantum of sentence. The findings of the Courts below recording conviction of the petitioner under Section 471 IPC is maintained.

13. Learned counsel for the petitioner submitted that the petitioner suffered much for the indiscreet decision at prime of his youth and has lost his career. It was further urged that the petitioner has undergone agony of trial for more than 8 years. So, the period of sentence already undergone should be considered sufficient punishment, which according to the custody certificate is 2 months and 2 days and with remissions 3 months and 2 days. It is further submitted that there is no past criminal record of the petitioner, who has since been married and to maintain family.

14. The petitioner who attached false certificates for his admission in the University not only used the forged B.A. Part-III certificate but also the Matriculation certificate allegedly issued

by the CBSE. In such a case if the deterrent punishment is not awarded it will convey a wrong message to the society. However, looking into the circumstances as pointed out by learned counsel for the petitioner and discussed above, I feel that the period of sentence deserves to be reduced considerably. The period of sentence is, thus, reduced from two years to one year of rigorous imprisonment under Section 471 IPC maintaining the amount of fine and the default clause.

July 22, 2015

jk

**(R.P. NAGRATH)
JUDGE**