

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Criminal Revision 824 of 2008

Date of Decision : October 21, 2016

Ajit Singh	Versus	Petitioner
State of Haryana		 Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. S.P.Chahar, Advocate
for the petitioner.

Mr. Ashok S. Chaudhary, Addl. A.G., Haryana.

T.P.S.MANN, J. (Oral)

The petitioner along with others was tried for committing offences punishable under Sections 120-B, 419, 420, 467, 468 and 471 IPC. Rattan Singh, co-accused of the petitioner died during the trial of the case whereas Shiv Kumar, another co-accused of the petitioner was discharged. Vide judgment and order dated 5.10.2004, learned Judicial Magistrate 1st Class, Charkhi Dadri, acquitted Ram Nath and Ved Parkash, co-accused of the petitioner of the charges against them. The petitioner and his co-accused Jai Gopal were convicted for the offences under Sections 419, 420, 467, 468 and 471 IPC and sentenced to undergo imprisonment and to pay fine as under:-

- (i) Rigorous imprisonment for a period of one year
each for the offence under Section 419 IPC;

- (ii) Rigorous imprisonment for a period of two years and to pay a fine of Rs.1,000/- each for the offence under Section 420 IPC and in default thereof, to further undergo simple imprisonment for a period of fifteen days;
- (iii) Rigorous imprisonment for a period of two years and to pay a fine of Rs.2,000/- each for the offence under Section 467 IPC and in default of payment of fine, to further undergo simple imprisonment for a period of one month;
- (iv) Rigorous imprisonment for a period of two years and to pay a fine of Rs.1,000/- each for the offence under Section 468 IPC and in default of payment of fine, to further undergo simple imprisonment for a period of fifteen days ; and
- (v) Rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- each for the offence under Section 471 IPC and in default of payment of fine, to further undergo simple imprisonment for a period of fifteen days;

All the sentences were ordered to run concurrently. The fine imposed by the trial Court upon the petitioner and his co-convict Jai Gopal was deposited by them there and then.

Aggrieved of his conviction and sentence, the petitioner filed an appeal. Vide judgment dated 8.4.2008, learned Additional Sessions Judge (Fast Track Court) Bhiwani acquitted him of the charges under Sections 419, 420, 471 and 120-B IPC and set-aside

his conviction and sentence for the said offences. However, his conviction and sentences for the offences under Sections 467 and 468 IPC, as ordered by the trial Court, were upheld.

Still not satisfied, the petitioner preferred the present revision, which came to be admitted on 2.5.2008. His sentence of imprisonment was also suspended and he was released on bail.

As per the prosecution, the petitioner had identified a wrong person as Har Chand at the time of execution of power of attorney in favour of Jai Gopal besides attesting it.

After hearing learned counsel for the parties, this Court finds that the petitioner stands rightly convicted for the offences under Sections 467 and 468 IPC. Being Lamberdar of village Rawalldhi, Police Station Sadar Dadri, District Bhiwani he had wrongly identified someone as Har Chand at the time of execution of power of attorney in favour of Jai Gopal. He had also attested the said General Power of Attorney. The said power of attorney was executed on 28.8.1992 whereas Har Chand had died long before the said date.

As regards the question of sentence, it may be noticed that the petitioner is facing the agony of criminal prosecution for the last about twenty three years. At the time of framing of the charge in the year 1999, the trial Court had recorded his age as 56 years. As of now, the petitioner is about 73 years of age. Even in the custody

certificate produced by the learned State counsel, the age of the petitioner is recorded as 77 years. Further, he is not beneficiary of the General Power of Attorney. He claims that he is not a previous offender and has already undergone an actual sentence of more than one month. Prayer has, accordingly, been made for remitting his remaining substantive sentences of imprisonment.

Learned State counsel has vehemently opposed the prayer by submitting that the petitioner had wrongly identified someone as Har Chand and in this way permitted his co-accused Jai Gopal to reap benefits under the said power of attorney. Learned State counsel has, however, produced custody certificate, as per which, the petitioner has already undergone an actual sentence of one month and one day. He is also not shown to be involved in any other criminal case.

Having heard learned counsel for the parties and on going through the records, this Court is of the view that no useful purpose will be served by sending the petitioner behind the bars, once again, for undergoing his remaining sentences of imprisonment. Ends of justice shall be suitably met, if his substantive sentences of imprisonment are reduced to the one already undergone by him. At the same time, the fine of Rs.2,000/- imposed upon him for the offence under Section 467 IPC can be suitably enhanced.

Resultantly, the conviction of the petitioner for the offences under Sections 467 and 468 IPC, are upheld. His substantive

sentences of imprisonment, on both the counts, shall stand reduced to the one already undergone by him. The fine of Rs.1,000/- imposed for the offence under Section 468 IPC along with its default clause is maintained. However, the fine of Rs.2,000/- imposed upon him for the offence under Section 467 IPC is enhanced to Rs.7,000/-. The enhanced amount of fine be deposited by the petitioner with the trial Court within three months from today, failing which, he shall be required to undergo simple imprisonment for three months.

The revision is, accordingly, disposed of.

October 21, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No