

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

**CRR No.3410 of 2012 (O&M)**

**Date of Decision : September 28, 2016**

Rajinder Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

**CORAM : HON'BLE MR. JUSTICE JITENDRA CHAUHAN**

Present : Mr. Arun K. Bakshi, Advocate  
for the petitioner.

Mr. Neeraj Poswal, Asstt. Advocate General, Haryana  
for the respondent-State.

**JITENDRA CHAUHAN, J.**

This revision is directed against the judgment/order dated 25.09.2012/27.09.2016, passed by the learned Additional Sessions Judge, Ambala vide which the appeal filed by the State of Haryana was accepted and the petitioner was convicted under Sections 420, 467, 468, 471 and 506 IPC and sentenced to undergo imprisonment as under :-

| Under Sections | Awarded Sentence of imprisonment | Fine      | In Default            |
|----------------|----------------------------------|-----------|-----------------------|
| 420 IPC        | R.I. for two years               | Rs.1000/- | S.I. for fifteen days |
| 467 IPC        | R.I. for three years             | Rs.2000/- | S.I. for one month    |
| 468 IPC        | R.I. for two years               | Rs.1000/- | S.I. for fifteen days |
| 471 IPC        | R.I. for six months              | Rs.500/-  | S.I. for ten days     |
| 506 IPC        | R.I. for six months              | Rs.500/-  | S.I. for one month    |

The brief facts of the case as noticed in the judgment passed by the lower Appellate Court are as under :-

“ The facts necessary for disposal of the present appeal are that

on 17.1.2002, PW1 Roshan Lal moved an application Ex.PC before the Superintendent of Police, Ambala. The said complaint appears to have been referred to Police Station Panjokhra for registration of the case. After true translation, the same is reproduced as under:-

*“To*

*The Superintendent of Police, Mahodaya Ji,  
Ambala.*

*Subject : Request for taking action against the  
accused Rajender Kumar @ Kukku son of Shri  
Amar Nath, Village Kalarheri, Tehsil & District  
Ambala.*

*Sir,*

*“1. It is stated that the applicant Roshan Lal son of Shri Ram Dutt, is resident of Village Lohari Teh. and Distt. Panipat and belongs to a poor family.*

*2. That the complainant had gone on 19.1.2000 to MES, Ambala Cantt. to take interview for the post of Mazdoor. It continued till 21.1.2000. On 19.1.2000, the above said accused met the complainant outside the office and asked him the reason for coming to Ambala. The complainant told that he had come for a job and he is in the process of taking an interview for the post of Mazdoor. At this, the accused told that he is posted in the said department and could procure the selection of the complainant by foul*

*means. Thereafter, the accused took the complainant to his residence and served him very nicely and told that since he belonged to my community, he will ensure my selection and for such selection, I shall have to pay Rs.1.00 lac. He assured me that no cheating shall be allowed to be done with me. The accused noted down the residential address of the complainant and came to such address after two days. At that time, I and my brother Som Dutt, with entire family, were present there. The accused stayed there for one day and gave full assurance and satisfaction.*

*3. That the accused took Rs.1.00 lac from me in January, 2000 at his house in Village Kallarheri. Remaining transaction continued. In February, 2000, he came once again to my house with some documents. He showed me the list of 12 persons and went away after obtaining my signatures on two documents. He told me that my medical fitness certificate and police report has been prepared and the same has to be deposited in the office. He took the same with him. The accused continued visiting my house time and again. Due to the said reason, he got familiar with our relatives also. In March, 2000, the accused told me that the post of LDC and Peon had been advertised by MES in Delhi Cantt. and he shall charge Rs.1,50,000/- for the post of clerk and Rs.1.00 lac for the post of Peon. Induced by the accused, Satish Kumar son of Dalip Singh, R/o Village Nagura, District Jind paid Rs.1,50,000/- to the accused. Ram Niwas son of Krishan*

*Chand, resident of Village Hat District Jind also paid Rs.1,50,000/- to him. The accused also extracted Rs.1,50,000/- from Mukesh son of Lakshmi Chand resident of Village Lohari, District Panipat for his appointment for the post of LDC clerk. Similarly, the accused extracted Rs.1.00 lac from Sanjay son of Shri Hardev Singh, resident of Village Sandori for being appointed to the post of peon. In April-May, the accused came to all of us once again. He obtained our signatures on the papers brought by him and took the same away. He told that the said papers shall be deposited in the said office because they shall be appointed without any interview and for that reason, the police report has been sought in advance. In August, 2000, I and the above said persons received a letter through post for the post of Mazdoor in MES. Other persons also received such letters.*

*4. That the accused told that during those days, recruitment to the Haryana police was going on and he had to get many boys selected therein and such selection shall also be done without an interview, in the same manner as the letters from MES Delhi Cantt. have been received. At that time, impressed by the influence and oration of the accused, Narender son of Jai Narain Village Dicadla District Panipat and Sultan son of Suraj Mal, resident of Village Dharamgarh, District Panipat, induced by the accused, gave Rs.2.00 lacs each to him for selection to Haryana Police. Thereafter, the*

*accused continued visiting me and others and continued assuring us. In April, 2001, the accused told me that the old selection had been cancelled and now, I and the others shall get the appointment. In April, 2001, the accused gave me one more appointment letter in my name and told me that joining has to be given on April 24, 2001. No joining took place on 24.4.2001. The accused gave me another letter and told me that another month is required for appointment.*

5. *That a sum of Rs.1.00 lac is much more for me. I faced the furry of its interest. I demanded money back from the accused as I was proving to be a defaulter. The accused kept on assuring and cheating me time and again. During the said period, I spent huge money to visit his house.*

6. *That in September, 2001, the accused gave one more letter and told me to read it. It mentioned therein that there was a ban on appointment in MES. In November, 2001, we met him. He continued putting off the matter to return the money. Thereafter, in November, 2001, we expressed our problem to the Garrison Engineer in his office and gave to him in writing.*

7. *That in December, 2001, we received a letter from his office, wherein, the problems of the applicant had not been solved. Thereafter, the complainant met the accused once again. He refused to return the money and openly threatened that if I disclose the said facts to any one or initiate an action, he will kill me.*

11. *That the accused is a dangerous*

*cheater. He has extracted lacs of rupees from many persons on the inducement of employment. He has cheated the complainant.*

*Your honour is requested that legal action be taken against the accused and money belonging to the complainant be got returned.”*

Thereafter, FIR Ex. PW5-A was registered against the petitioner and he was arrested. On the presentation of challan before the Court, copies of the documents as envisaged under Section 207 Cr.P.C. were supplied to the accused free of cost. In order to prove its case, the prosecution examined PW1-Roshan Lal (complainant), PW2-Narain Dutt (relative of Ram Niwas, who was allegedly induced), PW3-Satish Kumar (alleged induced person), PW4-Lakhmi Chand (alleged induced person), PW5-Dalip Kumar (Investigating Officer), PW6-Sanjay Kumar (alleged induced person), PW7-Narender Sharma (alleged induced person) and PW8-Sultan Singh (alleged induced person). Thereafter, the prosecution evidence was closed.

The statement of accused was recorded under Section 313 Cr.P.C. in which all the incriminating circumstances appearing in the prosecution examination were put to the accused to which the accused denied and pleaded false implications.

No defence was led by the petitioner.

After appraisal of evidence, the learned trial Magistrate vide judgment dated 02.09.2009 acquitted the accused of the charges.

Feeling dissatisfied, the State of Haryana filed an appeal before

the learned Additional Sessions Judge, Ambala. The learned Additional Sessions Judge, Ambala vide judgment dated 25.09.2012 and order dated 27.09.2012, convicted and sentenced the accused as narrated above.

Feeling dissatisfied, the present revision petition has been filed by the petitioner assailing the judgment dated 25.09.2012 and the order dated 27.09.2012 passed by learned Additional Sessions Judge, Ambala. Vide order dated 30.10.2012, the sentence of imprisonment of the petitioner was suspended.

It is contended by the learned counsel for the petitioner that the judgment passed by the trial Magistrate was in consonance with law. He had recorded his findings of acquittal of petitioner on the basis that there were discrepancies in the statements of PW-2, PW-4, PW-5, PW-7 and PW-8 with regard to handing over money to the accused. Moreover, neither the Investigating Officer of the case, nor any independent witness was examined by the prosecutions. However, the lower Appellate Court had not considered those aspects and had mechanically convicted the petitioner. The judgment and order passed by the lower Appellate Court are bad in law and liable to be set aside.

On the other hand, the learned State Counsel states that the judgment/order passed by the learned Appellate Court are based on correct appreciation of facts and law and the same does not admit any interference.

I have heard the learned counsel for the parties and have gone through the case file.

In the instant case, the question to be settled by this Court is

whether in the face of allegations against petitioner, a case under Section 420 IPC as set up by the prosecution is made out? The petitioner allegedly came into contact with the complainant and assured him that he would get the complainant employed in the MES department and in lieu of the employment, took Rs. 1 lakh from him. PW 1-complainant further stated that the accused/petitioner had also supplied two letters Ex.P-A and P-B wherein it was written that the complainant had been selected for the said post in the MES department. Similar are the testimonies of PW-3, Satish Kumar and PW-4 Lakshmi Chand who had each given a sum of Rs.1.50 lakh to the accused/petitioner. In fact, on repeated requests of PW-3, the accused petitioner had agreed to return the money he had received and issued a cheque of Rs.70,000/- in favour of PW-3 but ultimately the cheque could not be encashed due to insufficient funds. The cheque in question was also placed on record as Ex.PW-3/B.

The testimonies of both the witnesses if read in entirety leave no scope of doubt that the petitioner had induced the complainant. The factum of cheating stands corroborated by the statement of PW-3 who is also a victim of cheating by the petitioner. The accused had falsely assured them that he would get them appointed to the post of MES and had given fake documents to prolong the matter. Fake appointment letters issued to the witnesses along with the cheque of ₹70,000/- given by the accused to PW-3 in order to return a part of amount that he had taken from the said witness further strengthen the case of the prosecution. In the face of this evidence, this Court feels that the finding of conviction recorded by the lower

Appellate Court does not warrant any interference.

This Court finds no infirmity in the judgment passed by the lower Appellate Court. There is no illegality or irregularity calling for interference by this Court in exercise of its revisional jurisdiction. Consequently, the present revision petition is dismissed. There is no mitigating circumstances to reduce the sentence or to release the accused-appellant on probation. He duped the unemployed youths of lacs of rupees on the false promise of providing them employment. He deserves no leniency. The learned Additional Sessions Judge has already awarded sentence in commensurate with the offence.

The petitioner is stated to be on bail. He be taken into custody to serve the remaining part of the sentence.

**(JITENDRA CHAUHAN)**  
**JUDGE**

28.09.2016.  
SN/vanita

Whether reasoned/speaking : Yes/No  
Whether reportable: Yes/No