

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

Crl. Revision 1185 of 2013
Date of Decision : May 20, 2016

Noor Mohammad

.....Petitioner

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. Rakesh Nagpal, Advocate

Mr. Dhruv Dayal, Deputy A.G., Haryana

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

The petitioner was tried for committing the offences under Sections 3, 12(b) and 15 of the Passport Act, 1967 (here-in-after referred to as '**the Act**') and Section 417 IPC. Vide judgment and order dated 7/9.5.2011, learned Sub Divisional Judicial Magistrate, Hathin convicted him under Section 12 of the Act and sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs. 1,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of one month. He was also convicted under Section 417 IPC and sentenced to undergo rigorous imprisonment for one year. Both the sentences were ordered to run concurrently.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal. Vide judgment dated 28.2.2013, learned Additional Sessions Judge, Palwal found no merit in the appeal and dismissed the same. Still not satisfied, he preferred the present revision in which he is currently on bail pursuant to order dated 11.7.2013.

The case of the prosecution has been noticed by the learned

appellate Court in para 2 of its judgment which is reproduced here-in-below:-

“Briefly stated, the case set up by the prosecution is that on dated 8.4.2003 Kartar Singh, Assistant Sub Inspector alongwith other police officials while on patrolling at village Gohpur, a secret information was received to the effect that Noor Mohammad son of Fakna, resident of Roopraka possessed two passports which he got issued for different years. He used to visit Pakistan through those passports. If a raid was conducted, he could be apprehended. On receipt of this information, a raid was conducted at the house of Noor Mohammad where Noor Mohammad accosted the Investigating Officer and told him that he possessed two passports, one for the year 1998 and another for the year 1999 which he got issued from Passport Authority, Delhi. He himself handed over the passports to him. On being checked, it was found that Passport No. 5805971 was got issued from Passport Authority, Delhi in the name of Noor Mohammad wherein, the date of birth of Noor Mohammad has been shown as 4.4.1958. The same was valid upto 13.7.1998 to 12.7.2008. The another passport bearing No. B-0793776 was got issued from Passport Authority, Delhi in the name of Noor Mohammad wherein, the date of birth of Noor Mohammad was shown to be 2.3.1959 which was valid upto 10.10.2009. Noor Mohammad had used both the passports to visit Pakistan. Noor Mohammad by using fake date of births got issued two passports to visit Pakistan and thus, violated the provisions of Sections 3, 12-B, 15 of the Passport Act, 1967 and Sections 417, 199 of the Indian Penal Code. Action was requested. ASI Kartar Singh then sent the tehrir for registration of a case on which formal FIR No. 151 dated 8.4.2003 under Sections 3, 12(B) of the Indian Passports Act, 1967 and 419 and 199 of the Indian Penal Code at Police Station Hathin. After registration of the FIR,

further investigations were carried out by ASI Kartar Singh. He recorded the statements of witnesses under Section 161 Cr.P.C. collected the relevant documents on the record and prepared various memos and arrested the accused persons. After completion of investigation, final report under Section 173 Cr.P.C. was prepared and submitted in the Court for trial.”

After hearing learned counsel for the parties and on going through the judgments passed by the Courts below, this Court finds that the prosecution has led enough evidence which makes the petitioner liable for committing the offence under Section 12 of the Act and Section 417 IPC. The Government of India, Ministry of External Affairs, New Delhi delegated its power to grant sanction for prosecution under the Passport Act to the State Government vide Notification No. GSR-62(E) dated 1.12.1979 within their respective jurisdiction. Subsequent thereto necessary sanction was granted by the Financial Commissioner-cum-Principal Secretary, Government of Haryana, Home Department after examining the police file and other connected papers. The plea of the petitioner that ASI Kartar Singh was not competent to conduct the investigation is without any basis as it was not a case of search and seizure of the house of the petitioner. Rather, when the police party headed by ASI Kartar Singh met him, the petitioner himself produced the two passports. Under these circumstances, no case is made out for any interference in the conviction of the petitioner for the charges for which he stood convicted.

On the quantum of sentence, it may be noticed that the petitioner is facing the agony of criminal prosecution for the last more than thirteen years. He is not shown to be involved or convicted in any other

criminal case. When he was heard by the trial Court on the quantum of sentence, he had pleaded that he was a poor person. As per the custody certificate produced by the learned State counsel, the petitioner has already undergone an actual sentence of four months and twenty five days. Besides, he has earned remissions of eight days. In all, he has completed the sentence of five months and three days. There is no allegation that after being released on bail pursuant to the order passed by this Court, the petitioner has misused the concession.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the petitioner behind the bars, once again to undergo his remaining sentence of imprisonment. Ends of justice would be suitably met, if his substantive sentences of imprisonment on both the counts are reduced to the one already undergone by him.

Resultantly, the conviction of the petitioner under Section 12 of the Passport Act and Section 417 IPC is upheld. His substantive sentences of imprisonment on both the counts shall stand reduced to the one already undergone by him. However, the fine of Rs. 1,000/- imposed under Section 12 of the Passport Act is enhanced to Rs. 5,000/- and in default of its payment, he shall undergo rigorous imprisonment for three months.

But for the modification in the quantum of sentence of imprisonment and fine, as indicated above, the revision fails and is, therefore, dismissed.

May 20, 2016

ajay-1

AJAY KUMAR
2016.05.26 12:07
I attest to the accuracy and
integrity of the document
Chandigarh

**(T.P.S. MANN)
JUDGE**