

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

CRR No. 2545 of 2015

Date of decision : 19.01.2016

Nasir Hussain & anr.

....Petitioners

V/s

State of Haryana

....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Keshav Pratap Singh, Advocate for the petitioners.

Mr. Sushil Gautam, DAG Haryana.

RAJAN GUPTA J.

Petitioners had been convicted by Additional Chief Judicial Magistrate, Panchkula under section 419 read with Section 120 IPC and was sentenced to undergo imprisonment for a period of one year and to pay fine of ₹5,000/- each. In default whereof, to further undergo R.I. for one month.

Petitioners preferred two appeals before Sessions Judge, Panchkula against the judgment of their conviction/sentence. Vide judgment dated 11.06.2015 both the appeals were clubbed together and were dismissed. Feeling aggrieved against the judgments of both the courts below, petitioners have approached this court through the instant Criminal Revision.

Learned counsel for the petitioners at the outset states that he is limiting his prayer only to the extent of reduction in the sentence awarded and does not assail the judgment of conviction. He states that he is conscious that scope in the revision is very

limited as evidence of the witnesses cannot be re-appreciated or re-evaluated.

Learned State counsel, on the other hand submits that in case conviction of petitioners is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:

On 12.12.2009, a complaint was received by the police from the Principal of Bhawan Vidyalaya, Sector 15, Panchkula to the effect that on the said date State Teachers Eligibility Test (STET) was being conducted in the school by the Board of School Education Haryana, Bhiwani. In the said test, invigilation staff/flying squad had caught one Satbir Singh impersonating as Narender (petitioner no. 2 herein) who was supposed to appear in the STET test under Roll No. 1410145. On the basis of same, FIR was registered. During interrogation, however, it was revealed that it was Nasir Hussain (petitioner no. 1) who had wrongly disclosed his identity as Satbir Singh when caught by the flying squad impersonating as Narender (petitioner no. 2). After completion of investigation, challan against the accused was presented in the trial court.

Finding prima facie case under sections 419, 420, 465, 466, 468 & 471 read with section 120-B IPC charge was framed against the accused/petitioners, to which they pleaded not guilty and claimed trial.

To substantiate its case against the accused, the prosecution examined as many as seven witnesses.

The statement of the accused under Section 313 Cr.P.C. was recorded, wherein all the incriminating evidence available on record was put to them. They refuted the incriminating circumstances and pleaded false implication. The accused, however, did not examine any witness in his defence.

On the basis of the evidence on record, learned trial court held the petitioners were guilty of the charge under section 419 read with section 120 IPC and sentenced them as already indicated above. Both the appeals filed against the said judgment were also dismissed by the Sessions Judge, Panchkula.

On perusal of the judgments of both the courts below, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the petitioners guilty of the charge framed against them. The appellate court has also rightly dismissed the appeals. There is no infirmity or illegality with the findings given by both the courts below. The conviction of the petitioners is, thus, affirmed.

Even counsel for the petitioners, during the course of arguments, has not assailed the judgment of conviction. He has, however, pleaded for leniency in reduction in the quantum of sentence of the petitioners. He has stated that he is conscious that the scope in revision is very limited as evidence of the witnesses cannot be re-appreciated and re-evaluated.

Learned State counsel has already placed on record affidavit of A.R. Bishnoi, Superintendent, Central Jail, Ambala according to which petitioners have undergone sentence of more than seven months of actual sentence by now.

Keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioners shall be reduced to the period already undergone by them. Ordered accordingly.

The amount of fine if not already paid shall be deposited within three months from the date of receipt of certified copy of this order. However, in case fine is not deposited within the stipulated period, the modification in quantum of sentence shall stand withdrawn and the petitioners shall undergo the remaining period of sentence as awarded by the trial court. Except with modification in the quantum of sentence, as indicated herein above, the revision petition is dismissed.

January 19, 2016

Ajay

(RAJAN GUPTA)
JUDGE