

CRR-3231-2016

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

**CRR-3231-2016 (O & M)
Date of Decision: 09.09.2016**

Mukhtiar Singh

... Petitioner

Versus

Dharminder Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Tapan Kumar Yadav, Advocate,
for the petitioner.

INDERJIT SINGH, J.

The present revision petition has been filed by petitioner, Mukhtiar Singh against respondent, Dharminder Singh under Section 401 Cr.P.C. challenging the impugned judgment dated 08.08.2016 passed by learned Sessions Judge, Rewari whereby order dated 20.05.2015 passed by learned Judicial Magistrate Ist Class, Rewari, vide which complaint filed by the respondent was dismissed, has been set aside and case has been remitted back to the trial Court to conduct further enquiry.

It is mentioned in the revision petition that the impugned order dated 08.08.2016 is against law and facts on record. As such, the same is not sustainable in the eyes of law and is liable to be set aside.

I have heard learned counsel for the petitioner and perused the record.

From the record, I find that respondent-complainant filed

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complaint against the present petitioner-accused under Sections 420 and 468 IPC. As per the averments in the complaint, the petitioner-accused along with six other accused is facing another criminal trial under Sections 323, 325, 506 and 34 IPC, vide FIR No.03 dated 11.01.2012. As per the record of Government Primary School, Gangiacha Jat, date of birth of the accused is 14.06.1954. In the month of April, 2008, the accused applied for old age pension under a social security scheme of the Government of Haryana. In his application for old age pension, the accused mentioned his age as 61 years while in April 2008, his age was only 53 years and 10 months approximately. However, as per the norms and rules of the Government of Haryana, a person will be entitled for old age pension in case only when he has attained the age of 60 years. It is also mentioned in the complaint that in January, 2012, an inquiry was conducted by the Government of Haryana regarding the eligibility of old age pension holders and it was found that the accused is not legally entitled for old age pension as he has not attained the prescribed age of 60 years and, therefore, name of the accused was deleted from the list of pension holders. It is also mentioned in the complaint that there is no dispute regarding the date of birth of the accused and apart from the entry in government school register, it is fully certified from the certificates from the years 1947 to 1955, issued by the Registrar of Birth and Death, District Rewari. As per the averment of petitioner in application for pension that in the year 2008, his age was 61 years, then his birth entry must be recorded in the register of 1947 or 1948 maintained by the Registrar of Birth and Death.

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Learned Judicial Magistrate Ist Class, Rewari, after appreciating the evidence did not summon the present petitioner by stating that the complainant has failed to prove the certificate (Ex.P-1) by examining the concerned Principal or any other official from the school. The trial Court has also held that Ex.P-4 to Ex.P-7 are the certified copies of non-availability certificates for the years 1947 to 1954 which clearly reveal that there is no entry regarding the birth register for the year 1955 in which name of the person is Rajender son of Amar Singh son of Phulia, not Mukhtiar Singh. It has also been held that appropriate action has already been taken by the competent authority by stopping the old age pension in January 2012.

Perusal of the record shows that the order dated 20.05.2015 passed by learned Judicial Magistrate Ist Class, Rewari is not as per law. At the stage of summoning of accused, the Court is only to find as to whether there are sufficient grounds to proceed against the accused. The stoppage of pension by the government is no ground to discharge the accused. The stoppage of old age pension after about four years by the Government does not show that no offence has been committed. Similarly, the complainant has stepped into witness-box and has produced the school certificate as well as certificate from the Registrar of Birth and Death, Rewari for the relevant years which shows that there is no entry of birth of the accused during relevant period. From the record, I find that the grounds mentioned for dismissing the complaint by the Judicial Magistrate Ist Class, Rewari are totally incorrect and not as per evidence.

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However, the impugned order dated 08.08.2016 passed by the lower Appellate Court is correct, as per evidence and law. In no way, the findings recorded by the lower Appellate Court can be held as perverse or against the law. The lower Appellate Court has discussed the law that any person can initiate criminal proceedings and it has been rightly held that there are sufficient grounds to proceed further against the accused. The findings recorded by the lower Appellate Court that the trial Court has disbelieved the evidence produced by the complainant is correct and as per law. The lower Appellate Court has held that admittedly, it is proved that there is no date of birth record with the Registrar of birth and death as is clear from the certificate Ex.P-4.

From the perusal of the impugned order dated 08.08.2016 passed by the lower Appellate Court, I find that the same is correct, as per evidence and law and is not required any interference from this Court. Resultantly, the same is upheld.

Finding no merit in the present revision petition, the same is dismissed. However, nothing stated above will constitute opinion on merits of the case.

09.09.2016

parveen kumar

**(INDERJIT SINGH)
JUDGE**

Whether speaking/reasoned	:	Yes
Whether reportable	:	No