

102 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No.M-4895 of 2015 (O&M)
Date of Decision: February 09, 2016

Lalit Petitioner

vs.

State of Haryana Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Deepender Singh, Advocate for the petitioner.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
- 2. To be referred to the Reporters or not?
- 3. Whether the judgment should be reported in the Digest?

Kuldip Singh J.(Oral)

Present revision petition is directed against the judgment dated 30.11.2015 passed by learned Addl. Sessions Judge, Gurgaon, affirming the judgment of conviction dated 12.02.2015 and order of sentence dated 13.02.2015 passed by learned Judicial Magistrate 1st Class, Gurgaon, whereby the present petitioner was convicted and sentenced as under:

Sr. No.	Offence punishable u/s	Sentence(R.I.)	Fine (₹)	In default of payment of fine
1	419 IPC	6 months	--	--
2	465 IPC	3 months	--	--
3	468 IPC	1 year	1,000/-	6 months
4	471 IPC	3 months	--	--

All the sentences were directed to run concurrently.

In nutshell, the allegations against the petitioner are that he was caught by Ram Bhagat, Centre Superintendent, while he was

taking examination on behalf of some other student in S.D. Boys Sr. Secondary School. The petitioner was, accordingly, handed over to the police and on the statement of Ram Bhagat, Centre Superintendent in the present case was registered.

During investigation, the petitioner got recovered the original roll number slip. Therefore, section 471 IPC was also added.

I have heard learned counsel for the petitioner and have also carefully gone through the case file.

Learned counsel for the petitioner has vehemently argued that in this case, forgery is not proved. It is further argued that even the identity of the petitioner is also not proved.

Learned counsel for the petitioner has referred to the statement of PW2 Ram Bhagat, Centre Superintendent, who in cross-examination has stated that he is not able to identify the petitioner, who is present in the court today as he had seen him two years back. When the statement of PW2 Ram Bhagat is read as whole, it shows that the petitioner was caught red handed at the spot while taking examination on behalf of some other student and was handed over to the police. Therefore, there is no dispute/question of the identity of the petitioner.

The petitioner does not dispute that he was apprehended from the spot while he was impersonating other student. The answer sheet, sitting plan, question paper and U.M.C. form were also taken into possession. In fact, perusal of the file shows that the flying squad also conducted the raid.

Learned counsel for the petitioner has further argued that in this case, the forgery is not proved. The report of the Senior Scientific Officer is merely tendered but he was not produced before the court. It has been argued that to prove the forgery of handwriting, the examination of the said officer was must.

Learned counsel for the petitioner has relied upon the authority of Hon'ble the Supreme Court delivered in case of ***“Keshav Dutt vs State of Haryana”, 2011(6) R.C.R. (Criminal) 2446.***

I am of the view that in this case, the position is entirely different. When the petitioner was taking examination, he was caught red handed. The answer sheet, on which he had written answer, was also recovered. It is not the case of the petitioner that genuine student had written the said answer sheet or was present in the examination centre. A written answer sheet was found in possession of the petitioner.

As per under Section 106 of the Indian Evidence Act, it was within the special mean or knowledge of the accused as to who wrote the answer sheet. In the absence of the explanation, it has to be presumed that the petitioner had written the answer sheet found in his possession. Therefore, the offence of forgery was rightly proved.

Learned counsel for the petitioner has also placed reliance upon the following authorities of Hon'ble the Supreme Court as well as of this Court.

1. “Mustkeem @ Sirajudeen vs State of Rajasthan”,

2011 AIR (SC) (Cri) 1683.

*2. "L.I.C. of India & Anr. vs Ram Pal Singh Bisen",
2010(2) R.C.R. (Civil) 459.*

*3. "State of Maharashtra vs Damu and others", 2000
(2) R.C.R. (Criminal) 781.*

*4. "Sunil Kumar vs State of Punjab", 2013(2) Law
herald 1041.*

However, the present case of impersonation in examination and taking up the examination on behalf of some other student stand a different footing. It is emphasized that the petitioner was caught in the examination centre itself and answer sheet written by him was also recovered from him.

Learned counsel for the petitioner has further argued that in the statement recorded under Section 313 Cr.P.C., only one long question was put to him, whereas evidence in the form of short questions were not put to him.

Even if, it is so, no prejudice was caused to the petitioner. He had denied all the allegations before the lower court.

Therefore, there is no illegality or infirmity in the impugned judgment. Hence, the present revision petition stands dismissed.

February 09, 2016
sarita

(KULDIP SINGH)
JUDGE