

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-279-SBA-2005 (O&M)

Date of decision: September 25, 2017.

State of Punjab

... **Appellant**

v.

Parshotam Singh

... **Respondent**

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Shri Ramandeep Singh Sandhu, Sr. Dy. AG, Punjab.

Shri A.K. Walia, Advocate for the respondent.

A.B. Chaudhari, J. (Oral):

This appeal by the State of Punjab is directed against the judgment and order dated 8.3.2004 passed by JMIC, Ludhiana by which the respondent/accused was acquitted for the offence under Sections 420/455 IPC.

In support of the appeal, Learned Counsel for the State vehemently argued that the finding recorded by the trial court is illegal and the trial Judge ought to have recorded conviction and sentenced the respondent-accused. He, therefore, prayed for allowing the appeal.

Per contra, learned Counsel for the respondent has opposed the appeal and supported the reasons given by the trial Judge in the impugned order.

Upon hearing Learned Counsel for the parties, I find that the trial Judge has given reasons in para 13 and 14 and I quote the relevant

portions thereof, which read thus:-

“13. ... In this regard, when we go through the statement of PW4 Teja Singh who is the Senior Assistant employed in Punjab School Education Board, Mohali, it transpires that this is the sole witness produced by the prosecution who could have shown that the certificate produced by the accused is forged one. This witness even though has stated in his examination in chief that the date of birth of Parshotam Singh as per their record is 18.6.1969 and at the certificate, it has been mentioned as 18.6.1971 yet in his cross examination he stated that he has not been any record which may indicate that certificate Ex.PJ is correct or not. He also cannot say whether or not the proforma of certificate Ex.PJ is of their office. In these circumstances when the star witness of the prosecution examined to prove that the certificate in dispute is tampered one says that he cannot tell whether this certificate is correct or not, in my view the prosecution fails in its duty to prove that the certificate produced by the accused is a fabricated document and even the prosecution fails to prove that this certificate is prepared by the present accused. So in these circumstances, this Court is of the view that the ingredients as required under Sections 417/465 are not proved. ...”

“14. A perusal of the above discussion shows that the prosecution has failed to prove that it was the accused who prepared the matriculation certificate falsely with an intention

to support his claim and cheated the commandant IIInd Battalion IRB to get the appointment letter as a constable. The criminal cases are not to be decided on preponderance of probabilities but each and every circumstances pleaded by the prosecution has to be proved by it beyond all shadow of reasonable doubt which in the present case in my view the prosecution has failed. ...”

Upon perusal of the above reasons, I find that no fault can be found with the finding recorded by the trial court which is based on evidence and the trial court has rightly held that the criminal case against the respondent-accused cannot be proved by relying on the preponderance of probabilities. I agree with the reasons. At any rate, the respondent-accused was dismissed from service which he had obtained fraudulently. In that view of the matter, there is no merit in the appeal. The same is dismissed.

September 25, 2017.

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[A.B. Chaudhari]
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No