

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

CRA-S-No.2546-SB OF 2012
DATE OF DECISION : 16th NOVEMBER, 2017

Jasvir Kaur

.... Appellant

Versus

State of Punjab

.... Respondent

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

* * * *

Present : Mr. N. S. Chahal, Advocate for the petitioner.

Mr. Ramandeep Sandhu, Sr. D.A.G. Punjab.

* * * *

A. B. CHAUDHARI, J. (Oral)

Being aggrieved by the judgment and order dated 09.08.2012/11.08.2012 passed in Sessions Trial No.33 of 2012 arising out complaint under Sections 420, 409, 120-B IPC and 13(I)(d)(i) read with Section 13(2) 88 of Prevention of Corruption Act, the present appeal was filed by the appellant, who is a woman, against her conviction under Section 416 IPC.

Heard learned counsel for the State.

In support of the appeal, learned counsel for the appellant vehemently argued that the judgment of the trial Court is clearly faulty and perverse and not based on evidence and therefore the appeal is liable to be allowed. In the absence of truthful evidence, the trial Court committed error in convicting the appellant for the aforesaid offence. According to him there was no concrete evidence before the trial Court to record the conviction against the appellant. In the alternative he prayed that the age of the petitioner is now about sixty years and the incident of the forgery is alleged to have taken place in the year 2001 and was

unearthed in the year 2009. He further submitted that the appellant has also resigned from the service in the year 2009 and therefore, he prays for leniency in the matter of award of sentence.

Per contra the learned State counsel vehemently opposed the appeal and argued that the trial Court has relied on the evidence that was brought on record which is truthful and trustworthy. No perversity has been pointed out according to him. The evidence of the witnesses is clear and that the appellant has deliberately with requisite intention submitted false documents in relation to her sister to claim the employment as Anganwadi Worker. He further submitted that the offence being serious, there is no need to interfere with the order of sentence.

I have gone through the entire record including the reasons given by the trial Court in its detailed judgment. I have considered the submission made by counsel for the rival parties. At the outset, having gone through the record, I find that there is hardly scope for interfering with the finding of conviction recorded by the trial Court against the appellant. The relevant portion of the reasons given by the trial Court are quoted hereunder:

“8. xxx..... xxx..... It is not in any manner is disputed by the learned defence counsel that Jasvir Kaur and Paramjit Kaur are real sisters and that Paramjit Kaur does not deny her stand before the court that at the relevant time, she was working as a Hindi Mistress in a government school and thus a public servant. It is the case of the prosecution that the certificates of matriculation and BA Par-I

belonging to accused Paramjit Kaur have been used to get employment for accused Jasvir Kaur as Anganwari Worker, whereas, Paramjit Kaur has shown that after her marriage, she has been christened by the name of Jasvir Kaur as per the customs in the Punjabi culture. The very un rebutted document by way of affidavit of Paramjit Kaur @ Jasvir Kaur which obviously has been submitted as Ex.P2 elaborates that Paramjit Kaur claims that after her marriage, she has been given the name of Jasvir Kaur by her in laws and the appointment order Ex.P3 shows that on 21.12.2001, the appointment of Anganwari work was secured by Jasvir Kaur under the guise of Paramjit Kaur and she had been drawing salary detailed in Ex.P4 amounting to Rs.98855/-. The application for seeking employment Ex.P5 shows that it was Paramjit Kaur wife of Beant Singh who has given her name as Paramjit Kaur @ Jasvir Kaur and had applied for the post of Anganwadi Worker. It is not disputed by the learned defence counsel that matriculation certificate Ex.P6 is in the name of Paramjit Kaur daughter of Rur Singh, detailed marks card under the same very name Ex.P7, BA Part-I certificate Ex.P8 issued in the name of Paramjit Kaur daughter of Rur Singh

establish that the same belongs to Paramjit Kaur and the joining report Ex.P10 and resignation letter Ex.P11 purported to have been signed by Paramjit Kaur wife of Beant Singh have been brought on the record through the witnesses of the prosecution, comprising of deposition of PW2 Surinder Kaur who has detailed that it was on the application of Jasvir Kaur @ Paramjit Kaur daughter of Rur Singh that she was appointed Anganwadi worker on 21.12.2001 and that subsequently, she had been drawing salary for the said post. The learned defence counsel could not highlighted any ambiguity that has come up in the statement of this witness which could benefit the defence. PW3 Baljit Singh Clerk, government Senior Secondary School Dhudi has proved the posting of accused Paramjit Kaur daughter of Rur Singh as Hindi Mistress in Senior Secondary School Dhudi, whereas, PW4 Vijay Kumar from the Child Development and Project Officer has in no uncertain terms established the appointment of Jasvir Kaur @ Paramjit Kaur daughter of Rur Singh as an Anganwadi Worker and has proved on record documents Ex.P5 to Ex.P9 and her resignation on 2.7.2008 and that she was selected on the basis of her qualification having passed BA

Part-I class and received Rs.98855/- as salary during the period till her resignation on 2.7.2008. The deposition of PW6 Sukaran Chandol further celebrates and establishes the appointment of Paramjit Kaur @ Jasvir Kaur as Anganwadi worker and the affidavit submitted by her that her previous name was Paramjit Kaur and has been given the name of Jasvir Kaur after marriage and that accused Jasvir Kaur had used the certificates belonging to her sister Paramjit Kaur for obtaining job of Anganwadi worker and thus pecuniary gain of the amount of salary was obtained by her. Merely because the minimum qualification of Anganwadi worker was matriculation does not mean or absolves the accused as to the effect of misrepresentation by submission of BA Part-I certificate. The most important testimony is of complainant Gurcharan Singh PW7 who has proved his complaint made as Ex.P12 supported by affidavit Ex.P13, enquiry report Ex.P14 and ruqa Ex.P15 on the basis of which formal FIR Ex.P15/A was got registered, after the ruqa was sent through PW5 HC Narinder Pal Singh who has testified on the basis of his formal affidavit Ex.P5.”

9. xxx..... xxx..... xxx..... xxx.....

10. xxx..... xxx..... The definition of cheating as enshrined in Section 415 IPC provide for deceiving any person, fraudulently or dishonestly including him to deliver any property or to consent that any person shall retain any property, or intentionally induces that person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived. Explanation to Section 415 IPC defines a dishonest concealment of facts as a deception within the meaning of this section. Section 416 IPC provides cheating by personation. It is well established from the evidence, as has been detailed and discussed above and which does not need to be reproduced to prevent repetition that it is abundantly proved on the record that with an intention to commit deception Jasvir Kaur in order to enable her to secure employment has taken the stand that her actual name was Paramjit Kaur and after her marriage has been given the name of Jasvir Kaur. In the absence of any evidence and as has been detailed above, the inability to rebut the evidence of Gurcharan Singh to this effect, it clearly stands established that actually accused Jasvir Kaur has personated herself as Paramjit Kaur and while using her certificates had committed this deception

by personation and, therefore, the commission of offence of cheating by personation stands duly established.”

I agree with the above reasons recorded by the trial Court for finding appellant guilty of the offence under Section 416 IPC. The conviction of the appellant is therefore confirmed.

As to the order of sentence dated 11.08.2012, I find that the incident of forgery is alleged to have taken place in the year 2001 and the FIR in this regard was lodged in the year 2009. The appellant who is a woman has undergone the trauma of trial for number of years and ultimately she was convicted. The appellant by this time has reached the old age. Looking to the fact that the unemployment is writ large the appellant appears to have, in order to obtain the employment as Anganwadi Worker, submitted some documents and got employment. I think these are the mitigating circumstances for reducing the substantive sentence.

In the result, I make the following order.

ORDER

- (i) CRA-S-No.2546-SB OF 2012 is partly allowed.
- (ii) The impugned judgment and order of conviction dated 09.08.2012 for offence under Section 416 IPC, is confirmed.
- (iii) The order of sentence dated 11.08.2012 vide which the appellant was sentenced to undergo rigorous imprisonment for three years, is set aside and modified and the appellant is sentenced to undergo the sentence which she has already undergone.

(iv) The sentence of fine shall remain intact.

16th NOVEMBER, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>