

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

Sr. No. 122

CRM-M-2215-2017

Decided on : 02.03.2017

Harbhajan Singh

..... Petitioner(s)

VERSUS

Suresh Kumar

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Navdeep Chhabra, Advocate, for the petitioner(s).

. . .

DEEPAK SIBAL, J. (ORAL)

Through the present petition challenge is made to orders dated 16.07.2012 and 12.08.2016, passed by the Judicial Magistrate, Ist Class, Faridkot and the Additional Sessions Judge, Faridkot, respectively.

The petitioner filed an application under Section 340 Cr. P. C. for summoning and convicting the respondent for commission of offences under Sections 166, 175, 176, 177, 181, 182, 191, 192, 193, 194, 196, 199, 200, 463, 420, 419 and 427 IPC. According to the petitioner, on 27.07.1985 he was appointed as a Plumber in the Public Health Department, Government of Punjab. On 01.08.1987, his services were terminated. He challenged the said termination through a civil suit in which the respondent appeared as a witness of the department. According to the petitioner, while appearing as a witness since the respondent intentionally did not produce the complete record of the petitioner, he was liable to be punished under Sections 166, 175, 176, 177, 181, 182, 191, 192, 193, 194, 196, 199, 200, 463, 420, 419 and 427 IPC.

The trial court after considering the application filed by the

petitioner, rejected the same after returning a finding that the respondent had produced the relevant record before the civil court. Para No. 6 of the judgment of the civil court was also relied upon wherein it had been observed that there was no allegation by the petitioner that the defendant therein had withheld any document with regard to the petitioner's service record. It was further noticed by the trial court that the petitioner while leading evidence before the civil court had not applied for the production of any document concerning his employment other than the ones produced by the respondent.

The order of the trial court was challenged by the petitioner through a revision petition which was considered and rejected by the Additional Sessions Judge, Faridkot, by holding as under: -

“8. Learned counsel for the petitioner argued that the petitioner filed the civil suit for declaration on 28.03.1988. During the pendency of the suit, the respondent when appeared as witness he withheld the record from March 1986 to June 1986. Muster roll was present with the department and the same were not produced. So, the service of the petitioner were not regularized while the service of a co-employee was regularized. AW2 Surjit Singh proved the muster roll. AW3 is co-employee. It was further submitted that the petitioner was deprived of his valuable right. As per the judgment Ex. A1, due to withholding the record of June, 1986 and March, 1986.

9. While on the other hand, contention of the Learned counsel for the respondent is that the application is beyond the scope of section 340 Cr.P.C. No false document was prepared or forged. Even the respondent was not posted at Faridkot on 01.08.1987, when the services of the petitioner were dispensed with. As per Ex. R1 (Service Book), he was posted at Faridkot on 07.11.1987. There is no application for production of record. It is not in the cross examination that record has not been intentionally brought by the respondent. The suit of the petitioner was dismissed in the year 1991 and appeal was dismissed in the year 1988.

10. The allegation of the petitioner that he was removed from the service by the respondent on 01.08.1987. While as per Ex. R1, he joined at Faridkot on 07.11.1987 which falsifies the allegation of the petitioner that he was removed from the service by the respondent due to his personal interest. There is nothing on the record that there was any application for production of record from the respondent and the same was refused by the respondent and no testimony in cross-examination is proved where the record has been denied by the respondent. There is nothing on the file that respondent set up a false defence for department. Thus, learned trial court has rightly dismissed the application of the petitioner. There is no ground to interfere against the order of the learned trial court.

11. As a sequel of my above discussion, there is no merit in the revision and the same is hereby dismissed. File of the revision be consigned to record room and the Trial Court file be sent back along with

copy of this judgment.”

A perusal of the afore-quoted order shows that the Additional Sessions Judge, Faridkot also found no merit in the plea sought to be advanced by the petitioner.

After hearing learned counsel for the petitioner and after going through the orders of the trial court as also the revisional court I find no infirmity therein. Both the courts after going through the record have concurrently found that the respondent had not committed any offence as alleged by the petitioner. Both the courts have held that at no point of time before the civil court did the petitioner ask for any document to be produced with regard to his employment other than the record which was produced by the respondent. Had there been any further record which according to the petitioner was being withheld by the respondent it was but natural that he would have moved such application. On account of no such application having been moved by him, the trial court as also the revisional court have rightly took an adverse inference against the petitioner in that regard.

Even otherwise, the civil suit in which the petitioner complains that record was withheld by the respondent was dismissed on 21.02.1991 and the present application which had been rejected by the trial court as also by the revisional court was filed by the petitioner only in May, 2010 i.e. after over 19 years.

In view of the above, the present petition lacks merit.

Dismissed.

02.03.2017  
shamsher

**[ DEEPAK SIBAL ]**  
**JUDGE**

|                           |   |          |
|---------------------------|---|----------|
| Whether speaking/reasoned | : | Yes / No |
| Whether reportable        | : | Yes / No |