

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

CRR No. 2698 of 2010

DATE OF DECISION :- November 29, 2017

Kashmiri Lal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAN

Present:- Mr. Parminder Singh, Advocate for the petitioner.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

Kashmiri Lal, an accused in F.I.R. No. 100 dated 17.5.2000 for offences under Sections 420, 467, 468 and 471 of the Indian Penal Code registered with Police Station Indri, was tried by Judicial Magistrate Ist Class, Karnal, who vide judgment dated 29.7.2009 convicted him for offences under Sections 467, 468, 471 and 420 of the Indian Penal Code observing that prosecution has been able to prove the allegations against accused Kashmiri Lal that he had produced a forged certificate of Bihar Intermediate, Patna in order to receive higher grade from Education Department, Haryana and he had forged the said certificate intending that the same be used for the purpose of cheating and then fraudulently used it as genuine though he knew at the time of using that it was a forged document and further while posted as a teacher cheated the Education Department, Haryana by inducing it to deliver an amount of ₹2 lacs as arrears of higher

grade. Vide order dated 30.7.2009, the accused was sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.500/- and in default of payment of fine, to undergo simple imprisonment for 10 days for offence under Section 467 IPC, to undergo imprisonment for a period of one year and to pay a fine of Rs.500/- and in default of payment of fine to undergo simple imprisonment for 10 days, for offence under Section 468 IPC to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/- and in default of payment of fine, to undergo simple imprisonment for 10 days, for offence under Section 471 IPC to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/- and in default of payment of fine, to undergo simple imprisonment for 10 days for offence under Section 420 IPC.

Briefly stated the prosecution story is that District Primary Education Officer, Karnal addressed a communication dated 17.5.2000 to SHO Police Station Indri contending therein that Kashmiri Lal, JBT Teacher then posted at Badarpur Block, Indri had passed the Intermediate examination and he had brought a Writ Petition in the High Court for a higher grade. In that Writ Petition, the High Court had ordered grant of higher grade to him; that in compliance with the said order, Director Primary Education, Haryana, Chandigarh had issued the necessary order. The benefit was released to Kashmiri Lal which was in the sum of ₹2 lacs around; that Director Primary Education, Haryana, Chandigarh had directed all the District Primary Education Officers of the State to check the certificates and documents of the teachers who had been given higher grade from related Board or Universities and in compliance with that certificate of

Kashmiri Lal was sent to Secretary, Bihar Intermediate Board, Patna and as per response received therefrom it was conveyed that Board was constituted in August, 1980 and the Ist examination was held in 1983. Thus it was a bogus certificate on the basis of which Kashmiri Lal had received for a sum of Rs.2 lacs from the Education Department, interalia he requested that the matter be investigated. On receipt of that communication, formal F.I.R. was registered. The matter was investigated and accused was arrested in this case. Statements of various witnesses were recorded. After completion of investigation and other formalities, challan against accused was prepared and filed in the Court of Judicial Magistrate, Ist Class, Karnal. On presentation of challan in the Court copies of documents relied upon therein were supplied to the accused free of cost as provided under Section 207 Cr.P.C.

Finding a prima facie case, charge for offences under Sections 467/468/471/420 of the Indian Penal Code was framed against the accused to which he pleaded no guilty and claimed trial.

During the course of prosecution evidence it examined Sh. Mulakh Raj, Deputy Superintendent office of Sub Divisional Education Officer, Karnal as PW1, S.I. Amarjit Singh PW2, Ms. Raj Arora, District Primary Education Officer as PW3, Sh. Mukhtiar Singh, Section Officer as PW4, Sh. Jugal Kishore Parshad, Assistant Bihar Intermediate Education Council PW5, ASI Satbir Singh PW6, ASI Subhash Chand PW7 and Sh. Jai Gopal Sewak PW8. Since the prosecution failed to conclude its evidence despite availing of several opportunities, the same was closed by the Court order.

Statement of accused was recorded under Section 313 Cr.P.C. in which all the incriminating circumstances appearing against the accused were put to him but he denied the same and pleaded innocence. During his defence evidence, the accused has produced certain documents.

After hearing arguments, the trial Court had convicted and sentenced the accused as explained above which left him aggrieved and he had filed appeal in the Court of Sessions which was however dismissed by the learned Additional Sessions Judge, Karnal vide judgment dated 30.8.2010.

Still feeling dissatisfied, accused convict Kashmiri Lal had preferred a Revision Petition before this Court, notice of which was given to the State. However, during pendency of the Revision Petition, Kashmiri Lal has expired. On an application under Section 394 Cr.P.C. read with Section 482 Cr.P.C. having been filed by Budhi Parkash son of Kashmiri Lal such applicant has been permitted to pursue the Revision Petition in place of Kashmiri Lal.

I have heard learned counsel for the revision petitioner and learned State counsel besides going through the record and I find that there is no merit in the Revision Petition. The judgment of conviction passed by the trial Magistrate is well reasoned one based upon proper appraisal and appreciation of evidence and correct interpretation of law. There is no illegality or infirmity therein. The prosecution by leading cogent and convincing evidence both oral as well as documentary had proved its charge against accused beyond shadow of reasonable doubt and trial Magistrate was fully justified in convicting and sentencing the accused. Similarly the

Court of Additional Sessions Judge, Karnal had rightly dismissed the appeal filed by the accused convicting him. Before this Court there are two judgments giving the concurrent finding of guilty against revision petitioner Kashmiri Lal. The revisional jurisdiction of this Court is quite limited. The Court can interfere only if the judgment passed by the Court below is perverse or in violation of settled principles of criminal jurisprudence or for that matter if there is some illegality apparent on the face of the judgment. This is certainly not the case here. I do not find any reason to interfere with the judgments passed by the Courts below.

Thus finding no merit in the Revision Petition, the same stands dismissed.

(H.S. MADAAN)
JUDGE

November 29, 2017

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No