

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

(1) CRR No.1973 of 2017 (O&M).
Decided on:-03.08.2017.

Suman Bala.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

(2) CRR No.2400 of 2017 (O&M).

Raj Kumar.

.....Petitioner.

Versus

The State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. P.K. Ganga, Advocate
for the petitioner in CRR No.1973 of 2017.

Mr. M.S. Rai, Advocate
for the petitioner in CRR No.2400 of 2017.

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA, J.

This order shall dispose of the aforementioned two criminal revision petitions as the same have arisen from a common FIR No.351 dated 21.06.2012 under Sections 420, 467, 468, 471 and 120-B IPC registered at Police Station Civil Lines, Hisar. Moreover, both the petitions have been filed against common judgment dated 15.05.2017 passed by learned Additional Sessions Judge, Hisar whereby appeals filed by the petitioners against the

judgment of conviction dated 16.07.2016 and order of sentence dated 20.07.2016 passed by learned Judicial Magistrate 1st Class, Hisar, were dismissed.

However, for convenience and clarity, the detailed order is being passed in ***CRR No.1973 of 2017*** titled as ***Suman Bala Versus State of Haryana.***

Briefly stated, facts of the prosecution case are that an application bearing No.34P dated 19.01.2012 was received in the office of Superintendent of Police, Hisar with the averments that an interview has been held for the appointment of Anganwari Worker for the year 2010-11 on the direction of Director Woman and Child Development Department in which from Adampur Block, a candidate succeeded in selection on the basis of fake Detailed Marks Card (DMC). On the basis of complaint made by another waiting candidate, enquiry was conducted and it was noticed that the DMC has been altered. The DMC had been sent to the concerned Board for verification and the same was found to be false.

On the basis of these allegations, the aforesaid FIR was registered against selected candidate Suman Bala (petitioner herein). On the basis of fake DMC, petitioner Suman Bala got a job as Anganwari Worker and had drawn the salary for four months. On 21.06.2012, petitioner Suman Bala was arrested in the instant case. During interrogation, she had suffered a disclosure statement that she contacted Narender Kumar son of Ram Kumar who is doing the work of providing education degree from the other Board and obtained a fake degree from Varanasi. Accused Narender Singh was also

arrested during investigation on 01.11.2012 and he made a disclosure statement in which he named Raj Kumar (petitioner herein). Thus, petitioner Raj Kumar was also arrested on 02.12.2012. One more accused, namely, Rajesh Sharma was found to be involved in the case, but he could not be arrested.

Statements of the witnesses were recorded and after completion of investigation, Challan under Section 173 Cr.P.C. was presented in the Court against accused Suman Bala, Narender Singh and Raj Kumar. Copies of Challan, as envisaged under Section 207 Cr.P.C., were supplied to the accused. Finding a prima-facie case against the petitioners and co-accused Narender Singh, they were charge sheeted under Sections 420, 467, 468, 471 and 120-B IPC.

After considering the evidence and hearing the parties, the trial Court, vide judgment dated 16.07.2016, held both the petitioners and co-accused Narender Singh guilty for commission of offence under Sections 420, 467, 468 and 471 read with Section 120-B IPC. Vide separate order dated 20.07.2016 passed by the trial Court, the petitioners and co-accused Narender Singh were sentenced as under:

<u>Offence</u>	<u>Sentence</u>
Section 420 read with Section 120-B IPC	Simple imprisonment for three years and to pay a fine of Rs.1,000/- each.
Section 467 read with Section 120-B IPC	Simple imprisonment for three years and to pay a fine of Rs.1,000/- each.
Section 468 read with Section 120-B IPC	Simple imprisonment for three years and to pay a fine of Rs.1,000/- each.

Section 471 read with
Section 120-B IPC

Simple imprisonment for three years and
to pay a fine of Rs.1,000/- each.

In default of payment of fine, the petitioners and co-accused Narender Singh were further sentenced to undergo simple imprisonment for a period of six months. However, it was ordered that all the substantive sentences shall run concurrently.

Aggrieved against the aforementioned judgment and order passed by learned trial Court, the petitioners had preferred their respective appeals before the Court of Session, but the same were also dismissed by learned Additional Sessions Judge, Hisar vide common judgment dated 15.05.2017. However, conviction of the petitioners under Section 467 read with Section 120-B IPC was changed to Section 465 read with Section 120-B IPC. The petitioners were ordered to undergo simple imprisonment of two years and to pay a fine of Rs.1,000/- each under Section 465 read with Section 120-B IPC.

It is in these circumstances the petitioners have approached this Court by filing the present revision petitions.

Perusal of order dated May 23, 2017 of this Court reveals that learned counsel for petitioner Suman Bala has not challenged the conviction of the petitioner and has prayed that her case be considered on quantum of sentence and she be released on probation.

Similarly, the order dated July 17, 2017 of this Court passed in **CRR No.2400 of 2017** shows that instead of challenging the petition on merits, learned counsel for petitioner Raj Kumar has also confined his argument only regarding quantum of sentence.

Learned counsel for petitioner Suman Bala has contended that as against the awarded sentence of three years, the petitioner is in custody since 15.05.2017. She has two minor children i.e. 7 years old son and 4 years old daughter. She is a first time offender and has been facing the agony of criminal proceedings for the last more than five years. She is ready to return the pay drawn by her in the account of the authority from where she has drawn the same. Thus, he has prayed for release of the petitioner on probation of good conduct.

Similarly, learned counsel for petitioner Raj Kumar has also prayed for release of the petitioner on probation. He has contended that petitioner Raj Kumar is a poor person and is residing in the house of his in-laws. His parents-in-law are cancer patients and except him, there is no male member in the family to look after them. He is a first time offender and has been facing the agony of criminal proceedings for the last more than five years.

Learned counsel for both the petitioners have also referred to the judgment of this Court in ***S.P. Malhotra Versus U.T. Chandigarh 2007(3) RCR (Criminal) 735*** wherein the trial Court had convicted the accused under Section 420 IPC and sentenced them to undergo rigorous imprisonment for a period of three years. However, this Court released the accused on probation of good conduct.

On the other hand, learned State counsel, though has not disputed the custody of the petitioners, but has argued that learned trial Court as well as learned appellate Court have already taken a lenient view regarding the

sentence of petitioners. Thus, no interference is warranted in the quantum of sentence. Custody certificates of both the petitioners filed in the Court today, are taken on record.

I have heard learned counsel for the parties.

On perusal of the judgments of both the Courts below, this Court is of the considered view that there is no illegality or perversity in the findings given by both the Courts below regarding conviction of the petitioners which may warrant interference of this Court by invoking revisional jurisdiction. Even otherwise, learned counsel for the petitioners have not assailed the judgments of conviction and, rather, have prayed for release of the petitioners on probation. The conviction of both the petitioners is, therefore, affirmed.

So far as prayer of learned counsel for the petitioners for releasing the petitioners on probation of good conduct is concerned, this Court feels that the purpose of criminal law justice is not only to bring peace, harmony and discipline in the society, but also to give an opportunity to an erring individual to reform himself, so that there is everlasting peace in the society. This view finds support from the judgment of Hon'ble Supreme Court in the case of ***Karamjit Singh Versus State (Delhi Admn.), 2001(9) SCC 161***, wherein the following observations were made:

“Punishment in criminal cases is both punitive and reformative. The purpose is that the person found guilty of committing the offence is made to realise his fault and is deterred from repeating such acts in future. The reformative aspect is meant to enable the person concerned to relent and repent for his action and make himself acceptable to the society as a useful social being. In determining the question of proper

punishment in a criminal case the Court has to weight the degree of culpability of the accused, its effect on others and the desirability of showing any leniency in the matter of punishment in the case. An act of balancing is what is needed in such a case, a balance between the interest of the individual and the concern of the society weighing the one against the other. Imposing a hard punishment on the accused serves a limited purpose but at the same time, it is to be kept in mind that relevance of deterrent punishment in matters of serious crimes affecting society should not be undermined. Within the parameters of the law an attempt has to be made to afford an opportunity to the individual to reform himself and lead life of a normal, useful member of society and make his contribution in that regard. Denying such opportunity to a person who has been found to have committed offence in the facts and circumstances placed on record would only have a hardening attitude towards his fellow beings and towards society at large. Such a situation, has to be avoided, again within the permissible limits of law.”

Thus, keeping in view the ratio of law laid down in ***S.P. Malhotra’s case (supra)*** and in ***Karamjit Singh’s case (supra)***, as well as the fact that the petitioners have not crossed the age whereby they cannot be reformed, particularly when they are first time offenders and facing the agony of trial for the last more than five years, it is ordered that both the petitioners be released on probation under Section 4(1) of the Probation of Offenders Act, 1958, for a period of one year on their furnishing personal bonds in the sum of Rs.25,000/- with one surety in the like amount each to the satisfaction of Chief Judicial Magistrate, Hisar with an undertaking that during the period of one year, they shall not commit an offence and shall maintain peace and be

of good behaviour. In case the petitioners violate the terms of the bonds, they shall appear before the Chief Judicial Magistrate, Hisar to receive their remaining sentence.

Besides this, petitioner Suman Bala is directed to return the pay drawn by her in the account of the authority from where she has drawn the same within a period of one month from the date of her release on probation, failing which she shall not be entitled to the benefit of probation granted by this Court and the revision petition filed by her shall be deemed to have been dismissed.

With the aforesaid modification in the order of sentence, the present revision petitions stand disposed of.

Photocopy of this order be placed on the file of other connected case.

August 03, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No