

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

CRR No.2331 of 2017 (O&M).

Decided on:-04.08.2017.

Narender Singh.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. Harish Nain, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA, J. (ORAL)

The petitioner has filed the present revision petition against the judgment dated 15.05.2017 passed by learned Additional Sessions Judge, Hisar whereby his appeal 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, was dismissed.

At the outset, learned counsel for the petitioner has not challenged the conviction of the petitioner and has confined his prayer to the extent that the case of petitioner be considered on quantum of sentence and he be released on probation of good conduct.

Notice of motion limited to the above extent.

On asking of this Court, Mr. Manish Bansal, DAG, Haryana accepts notice of the petition.

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 FIR No.351 dated 21.06.2012 under Sections 420, 467, 468, 471 and 120-B IPC was registered at Police Station Civil Lines, Hisar against selected candidate Suman Bala. On the basis of fake DMC, Suman Bala got a job as Anganwari Worker and had drawn the salary for four months. On 21.06.2012, accused Suman Bala was arrested in the instant case. During interrogation, she had suffered a disclosure statement that she contacted Narender Singh, petitioner herein, who is doing the work of providing education degree from the other Board and obtained a fake degree from Varanasi. Petitioner Narender Singh was also arrested during investigation on 01.11.2012 and he made a disclosure statement in which he named accused Raj Kumar. Thus, accused 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 petitioner and other co-accused, 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 the petitioner and other two co-accused 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 petitioner and other co-accused 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 petitioner and other co-accused 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 petitioner had preferred an appeal before the Court of Session, but the same was also dismissed by learned Additional Sessions Judge, Hisar vide judgment dated 15.05.2017. However, conviction of the petitioner under Section 467 read with Section 120-B IPC was changed to Section 465 read with Section 120-B IPC. The petitioner was ordered to undergo simple imprisonment of two years and to pay a fine of Rs.1,000/- under Section 465 read with Section 120-B IPC.

It is in these circumstances the petitioner has approached this Court by filing the present revision petition.

Learned counsel for the petitioner has contended that the petitioner is a poor person and is a married person having one son. His elder brother has expired and responsibility to look after the children of his brother also upon him. His father has already expired and he is having old aged mother. Except the petitioner, 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 the petitioner has 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 petitioner, but has argued that learned trial Court as well as learned appellate Court have already taken a lenient view regarding the sentence of petitioner. Thus, no interference is warranted in the quantum of sentence.

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 petitioner which may warrant interference of this Court by invoking revisional jurisdiction. Even otherwise, learned counsel for the petitioner has not assailed the judgments of conviction and, rather, has prayed for release of the petitioner on probation. The conviction of the petitioner is, therefore, affirmed.

So far as prayer of learned counsel for the petitioner for releasing the petitioner 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 reformatory. 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 reformatory

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 petitioner has not crossed the age whereby he cannot be reformed, particularly when he is first time offender and facing the agony of trial for the last more than five years, it is ordered that the petitioner be released on probation under Section 4(1) of the Probation of Offenders Act, 1958, for a period of one year on his furnishing personal bonds in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of Chief

Judicial Magistrate, Hisar with an undertaking that during the period of one year, he shall not commit an offence and shall maintain peace and be of good behaviour. In case the petitioner violates the terms of the bonds, he shall appear before the Chief Judicial Magistrate, Hisar to receive his remaining sentence.

With the aforesaid modification in the order of sentence, the present revision petition stands disposed of.

August 04, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No