

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 2428 of 2008 (O&M)

Date of decision : 19.3.2018

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Devinder Singh

.....Petitioner

vs.

State of Haryana

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. B.S. Thind, Advocate
for the petitioner.

Mr. Gaurav Bansal, Assistant Advocate General,
Haryana.

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H. S. Madaan, J. (Oral)

Devinder Singh and Ram Phal, both of them being accused in FIR No. 30 dated 14.3.1997, for offences under Sections 420, 467, 468, 471, 120-B IPC, registered at Police Station GRP, Kurukshetra, faced trial by Chief Judicial Magistrate, Kurukshetra, who vide judgment dated 27.11.2007, convicted the accused Devinder Singh for offences under Sections 467, 468, 471 and 420 IPC, whereas acquitted his co-accused Ram Phal of the charge framed against him and in terms of order dated 30.11.2007 Devinder Singh accused was sentenced as under:-

<i>Name of the convict</i>	<i>Under sections</i>	<i>Sentence</i>
Devinder Singh	U/s 420 IPC	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 further undergo simple imprisonment for 15 days.
	U/s 467 IPC	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 further undergo simple imprisonment for 15 days.
	U/s 468 IPC	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 further undergo simple imprisonment for 15 days.
	U/s 471 IPC	To undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.100/- and in default of payment of fine to further undergo simple imprisonment for 7 days.

All the sentences were ordered to run concurrently.

Briefly stated, facts of the case as per the prosecution story are that the Section Engineer, Railway Kurukshetra, had submitted an application dated 14.3.1997 to SHO Police Station GRP, Kurukshetra, mentioning therein that Devinder Singh s/o Balbir Singh reported for duty on 12.3.1997 at 4.45 P.M. with an appointment letter, purportedly issued by Assistant Personnel Officer-I, New Delhi, which was found to be fictitious with forged signatures. The complainant had enclosed a photocopy of the appointment letter alongwith the written complaint, while requesting for taking of necessary action in the matter.

On receipt of that complaint, formal FIR was registered. The case was investigated. Statements of the witnesses were recorded. The accused were arrested in this case.

After completion of investigation and other formalities,

challan against the accused was prepared and filed in the Court.

On presentation of challan in the Court, copies of the documents relied upon therein were supplied to the accused free of cost, as provided under Section 207 Cr.P.C. After going through the record and then finding a prima facie case, charge for offences under Sections 467, 468, 471 and 420 IPC was framed against the accused, to which they pleaded not guilty and claimed trial.

During the course of prosecution evidence, it examined PW-1 Kanti Saroop, PW-2 Gurdeep Singh, PW-3 Jagdish Narain Kesri, PW-4 Trilok Chand, PW-5 Nand Kishore, PW-6 SI Dharam Pal and thereafter evidence of the prosecution stood closed.

Statements of the accused were recorded under Section 313 Cr.P.C. in which all the incriminating circumstances appearing against the accused were put to them, but they denied the allegations and raised the plea that they are innocent and have been falsely involved in this case. However, the accused did not lead any evidence in defence.

The trial Court had formulated the following points for determination :-

- i) Whether the prosecution has proved its case against the accused for the commission of offence punishable under Sections 467, 468, 471, 420 IPC?
- ii) Final result.

After hearing arguments, the trial Magistrate, convicted and sentenced accused Devinder Singh, as mentioned above. Feeling aggrieved, the accused had preferred an appeal before the Additional

Sessions Judge, Kurukshetra, who vide judgment dated 3.11.2008 dismissed the same, which left the accused aggrieved and he has approached this Court, by way of filing the present revision petition, notice of which was given to the respondent.

I have heard learned counsel for the petitioner, learned State counsel, besides going through the record.

Learned counsel for the revisionist has argued that Ram Phal against whom most of the allegations had been levelled by the prosecution, has since been acquitted and the revisionist had not committed any offence, he had been given a letter by the Head Office, which he had simply produced before the complainant.

On the other hand, learned State counsel has submitted that it was Devinder Singh who had brought the forged appointment letter, he is beneficiary under the said letter, he joined the service on the basis of such forged letter, therefore, he was properly convicted for offences under Sections 420, 467, 478, 471 IPC and sentenced accordingly.

After hearing the rival contentions, I do not find any force in the arguments advanced by learned counsel for the revisionist, whereas those set up by the learned State counsel, are having merit. It was Devinder Singh who had produced the forged appointment letter, purportedly to be signed by Assistant Personnel Officer, New Delhi. However, when the matter was enquired into the letter was found to be forged one. During the trial before the Chief Judicial Magistrate, Kurukshetra, PW-1 Kanti Saroop, Senior Section Engineer, Northern Railway, Kurukshetra, had appeared and

stated that when appointment letter Exhibit PW 4/A was produced and then on the said letter itself it was written that the authenticity of the document be got verified and on 12.3.1997 when Devinder Singh accused came to the office, he was asked to report for duty at Kaithal and on 14.3.1997, the matter was reported to the police by submitting a written complaint and the accused had been arrested.

PW-3 Jagdish Narain Kesri, Head Clerk, testified that on 12.3.1997 while he was present in the office, the accused came there disclosing his name as Devinder Singh, producing the appointment letter and requesting to allow his joining on the basis of said letter. According to the witness, he was asked to make Devinder Singh join the duty at Kaithal on the next day; that he had gone to New Delhi to check the authenticity of the appointment letter, as per direction of the Section Engineer; he went there and made necessary enquiry and appointment letter Exhibit P1 was found to be forged one. This document was allegedly issued by A.P.O. DRM, Ambala.

PW-4 Trilok Chand Chaudhary, APO DRM office Ambala, testified that during the year 1997, he was posted as APO, T&C Delhi and at that time a boy had come to him along with the appointment letter and the letter was produced before him for verification, but when he enquired, it was found to be forged and the signatures on the said documents were found to be fictitious.

Under these circumstances, Devinder Singh cannot escape criminal liability. The relevant paragraphs of the judgment passed by Additional Sessions Judge, Kurukshetra, are reproduced hereunder :-

18. After considering the rival contentions, this court is of the considered view that the present appellant had used forged document Ex.P1 for his financial gains. He had worked under a calculated design and motive so as to cheat the authorities and for that purpose, forged appointment letter was prepared and the same actually used. The said letter has been proved on the file to be forged document as per testimony of PW4 Trilok Chand Chaudhary whose signatures were allegedly on the said document. This witness has stated in so many words before the court that the document Ex.P1 was not bearing his signatures and he had already submitted report Exh. PW4/A on the same. The witness was cross-examined at length, but nothing had come on the file on the basis of which his testimony could be discarded. As there is direct evidence on the point and the author of the document himself appearing before the court and taking specific plea that the said document was not bearing his signatures, there was no question of getting the said document compared and as such the authority of law referred to and relied upon by learned counsel for the appellant in Natabar Bahera's cases

(supra) is distinguishable from the facts of the case in hand. Similarly, authorities in law referred to and relied upon by learned counsel for the appellant in case Anil Kumar Bose vs. State of Bihar, Hasan Ali vs. State, Bir Ninder Singh vs. Harpal Singh and Dalip Singh vs. State of Punjab (Supras) are distinguishable because in the case in hand positive evidence has come on the file that appellant Devender Singh had procured forged appointment letter and used the same with the intention to cheat the railway authorities who are complainant in this case and actually used the same document for the purpose of cheating. The appellant was knowing fully well that the said document was forged document when the same was used as genuine document and the appellant had cheated the complainant for which he is facing trial in this case. PW1 Kanti Saroop had made deposition on this point showing involvement of appellant and using forged document and actually used the same with the intention to cheat the complainant. Nothing had come during cross -examination of these witnesses on the basis of which their testimony be discarded. Moreover, these are official witnesses and they

had absolutely no enmity with the appellant to depose falsely against him. To the contrary, the defence vermin is plea of denial which does not support or corroborate the plea of innocence and held the appellant-accused guilty. So, the present appeal against the judgment of conviction dated 27.11.2007 is without any merit and the prosecution has been able to prove the guilt of accused for commission of offences under Sections 467, 471 and 420 IPC and the appeal against the judgment of conviction stands dismissed.

19. As regards order of sentence dated 30.11.2007, the sentence provided by the Statute for the offence under Section 467 IPC is ten years imprisonment and fine and for the offence under section 468 IPC is seven years imprisonment and fine and the learned trial Magistrate has already taken more lenient view while passing the order of sentence. The present appeal is not entitled to be released on probation , as he has committed such a heinous crime, so as to cheat public authorities with a calculated motive and design for financial gains and such like culprits do not deserves any leniency and they are even not entitled to be released on probation. So, the

learned trial Magistrate has rightly not ordered to release of appellant on probation and the sentence awarded by the learned trial Magistrate is already most lenient view in the matter and the appeal against the order of sentence dated 30.11.2007 is also without any merit and the same stands dismissed.”

I do not find any illegality or infirmity with the judgment of conviction and order of sentence passed by the Chief Judicial Magistrate, Kurukshetra and judgment passed by the Additional Sessions Judge, Kurukshetra, dismissing the appeal, much less apparent on the face of the same. It is well settled that scope of revisional jurisdiction of this Court is quite limited and the Court is to interfere only if there is an illegality or infirmity apparent on the face of the judgment under challenge. This is not the case here.

The revision petition is found to be without any merit and is dismissed accordingly. Petitioner – Devinder Singh is stated to be on bail granted to him while suspending his sentence. His bail is cancelled. Chief Judicial Magistrate, Kurukshetra is directed to issue arrest warrant against him to get him arrested, so as to make him undergo the remaining sentence.

(**H.S. Madaan**)
Judge

19.3.2018
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Whether speaking / reasoned
Whether reportable

Yes/ No
Yes/ No