

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

244

CRR-1522-2018 (O&M)

Date of Decision: 27.07.2018

Rajpal

.....Petitioner

Versus

State of Haryana

.....Respondent

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

**Present: Mr. Parveen Sharma, Advocate,
for the petitioner.**

Mr. A.S. Chaudhary, Addl. A.G., Haryana.

HARI PAL VERMA, J.(Oral)

The petitioner has filed present revision petition against the judgment dated 04.04.2018 passed by learned Additional Sessions Judge, Sonapat, whereby appeal filed by the petitioner against the judgment of conviction and order of sentence dated 04.11.2016 passed by learned Judicial Magistrate 1st Class, Gohana was partly allowed.

Briefly stated, an FIR No.105 dated 06.06.2012 under Sections 420, 467, 468, 471 IPC was registered at Police Station, Baroda, Gohana against the petitioner-accused and he was made to face trial for the said offences. However, learned trial Court vide judgment dated 04.11.2016 convicted the petitioner for the offences under Sections 417, 468, 471 IPC and vide separate order of that date, sentenced him as under:-

<u>Convicted u/s</u>	<u>R.I.</u>	<u>Fine, if any</u>
417 IPC	six months	Rs.10,000/- I/d-R.I. 01 month
468 IPC	two years	Rs.10,000/- I/d-R.I. 03 months
471 IPC	one year	Rs.5,000/- I/d-R.I. 03 months

Aggrieved against the aforementioned judgment and order passed by learned trial Court, the petitioner had preferred an appeal before the Court of Session. Vide judgment dated 04.04.2018 passed by learned Additional Sessions Judge, Sonapat, the said appeal was partly allowed and conviction of the petitioner was modified as under:-

<u>Convicted u/s</u>	<u>R.I.</u>	<u>Fine, if any</u>
417/511 IPC	six months	Rs.5,000/-
468 IPC	one year	Rs.10,000/-
471 IPC	-----	Rs.10,000/-

It was further ordered that all the substantive sentences shall run concurrently. However, the amount of fine was paid by the petitioner-accused before the trial Court.

It is in the aforesaid circumstances, the petitioner has filed the present revision petition.

As learned counsel for the petitioner-accused had confined his arguments qua the quantum of sentence, therefore, this Court vide order dated May 01, 2018 had issued notice regarding quantum of sentence only.

Learned counsel for the petitioner has contended that as against the awarded maximum sentence of one year, the petitioner is in custody for the last more than 04 months including remission. He has further contended

that the petitioner is a poor person and has small children to look after. He is a sole bread earner of his family and is a first time offender. There is no other case against him. He has been suffering the agony of criminal proceedings since 06.06.2012, i.e. the date when the FIR in question was registered against him. Thus, it has been prayed that the sentence awarded to the petitioner be reduced to the period already undergone by him.

Learned State counsel has filed the custody certificate of the petitioner-accused. The same is taken on record. Learned State counsel has not controverted the factum of custody of the petitioner.

I have heard learned counsel for the parties.

The only allegation against the petitioner is that while applying for the post of Namberdar, he submitted a fake matriculation certificate. At the same time, petitioner was not held entitled for the said post.

On perusal of the judgments of the Courts below, this Court is of the considered view that lower Appellate Court has rightly appreciated the evidence on record while holding the petitioner guilty for commission of offence under Section 417 read with Section 511 IPC, 468 and 471 IPC. There is no illegality or perversity in the findings given by the Courts below regarding his conviction, 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 has restricted his arguments qua the quantum of sentence only. The conviction of the petitioner is, therefore, affirmed.

So far as the issue on quantum of sentence is concerned, as per the custody certificate, the petitioner has already undergone imprisonment for a period of 4 months and 5 days including remission of 4 days. He has

been suffering the agony of criminal proceedings for the last more than six years, as the FIR in question was registered against him on 06.06.2012. It is also a conceded fact that he is a first time offender and no other case is pending against him.

Therefore, taking into account the protracted trial, antecedents and the period of custody of the petitioner, this Court feels that the ends of justice would be met, if the sentence awarded to the petitioner is reduced to the period already undergone by him.

Ordered accordingly.

However, the sentence of petitioner qua the amount of fine, as awarded by learned appellate Court, shall remain intact. The petitioner be released forthwith, if not required in other case, subject to payment of fine, if already not paid.

With the aforesaid modification in the sentence of the petitioner, as awarded by learned appellate Court, the present revision petition stands dismissed.

July 27, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No