

Sr. No.257

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

CRR-564-2017(O&M)

Date of decision:25.10.2018

Kuldeep

.....Petitioner

versus

The State of U.T., Chandigarh

.....Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Kamal Chaudhary, Advocate
for the petitioner.

Mr. Amit Kumar Goyal, APP, U.T., Chandigarh.

Rajbir Sehrawat, J(Oral)

Present petition has been filed against the Order dated 14.09.2016 passed by the Additional Sessions Judge, Chandigarh, whereby the conviction and sentence imposed upon the petitioner by Judicial Magistrate Ist Class, Chandigarh vide Order dated 17.03.2016, wherein the petitioner was convicted under Sections 420,467,468,471,474 and 120-B IPC and was sentenced to a maximum imprisonment of 02 years under various sections, alongwith the lesser punishments; as well as fine, was upheld.

The allegation, in brief, against the petitioner is that on 13.04.2010 while checking the CTU Bus on route No.5-A, ticket checker had caught a boy named Abhilash travelling in CTU Bus No.CH-01-5017 with a fake student pass. On verification, it was found that such pass containing a sticker No.253346 was issued in the name of some other person. However, the present petitioner fabricated the bus pass by changing

the above said sticker and affixed it on the bus pass found with the student travelling in the bus. Therefore, allegation against the petitioner was regarding fabrication of bus pass which was being used by the student. On these allegations, the petitioner was tried and punished, as mentioned above.

At the outset learned counsel for the petitioner has prayed that the petitioner has already undergone about 01 year and 09 months of sentence. Therefore, he has instructions to submit that the present petition be pressed only qua reduction of sentence. Therefore, it is contended by the learned counsel that although the petitioner has a good case on merits, however, he is pressing present petition only qua reduction of sentence. Accordingly, it is prayed that the sentence imposed upon the petitioner be reduced to the sentence already undergone by him.

On the other hand, learned counsel for the respondent has submitted that the petitioner has been rightly convicted. There are no extenuating circumstances in favour of the petitioner for reduction of the sentence. Therefore, it is contended that the sentence need not be reduced. It is further submitted by the learned counsel that there are other cases also against the petitioner.

To counter these allegations, learned counsel for the petitioner has submitted that the petitioner is the sole bread earner of the family. Learned counsel for the petitioner contends that the case is of the year, 2010. Petitioner has already suffered during the pendency of the long trial. Still further it is contended that the petitioner has not committed any offence of similar nature. It is further contended by the counsel that the petitioner has shown sufficient tendency to reform; because during the custody also, the petitioner has not been found involved in any mis-conduct. Hence, even

the Jail Authorities have granted him the remission of 02 months and 02 days.

Having heard the learned counsel for the parties, this Court is of the considered opinion that in the facts and circumstances of the case, it would not be un-justified if the submission made by learned counsel for the petitioner is accepted and the sentence of the petitioner is ordered to be reduced; as prayed by the counsel. Although the petitioner was convicted for 02 years, however, the petitioner has already undergone 01 year 09 months and 20 days of sentence. The petitioner has also show his intention to get reformed; because he has earned remissions for good behaviour even during custody. So far as the other cases, referred by the counsel for the U.T.,Chandigarh; are concerned, those cases are of different nature. In any case, the petitioner would suffer the consequences of those cases in accordance with law. Therefore, those cases can not be taken as against the petitioner, to defeat the submission of the counsel for the petitioner in the present case.

Accordingly, allowing the present petition; partly, while upholding the conviction of the petitioner, the sentence of the petitioner is ordered to be reduced to the sentence already undergone by the petitioner. Let the petitioner be released from custody, in case he is not required in any other case.

25th October, 2018
Shivani Kaushik

[RAJBIR SEHRAWAT]
JUDGE

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*