

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRR-2414-2009 (O&M)

Date of Decision: April 03, 2019

Constable Rachhpal Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Ranjan Lakhanpal, Advocate, for the petitioner.

Mr. Sarabjit Singh Cheema, Assistant A.G., Punjab.

**Harnaresh Singh Gill, J.**

The petitioner was tried for committing the offences punishable under Sections 465, 468 and 471 IPC. Vide judgment and order dated 01.12.2005, learned Additional Chief Judicial Magistrate, Ludhiana, held the petitioner guilty under the aforesaid Sections and sentenced him to undergo RI for one year under Section 465 IPC; RI for two years and to pay a fine of Rs.1,000/- under Section 468 and, in default of payment of fine, to undergo further RI for 15 days and to undergo RI for one year under Section 471 IPC. All the sentences were ordered to run concurrently.

Aggrieved there-against, the petitioner preferred an appeal before the learned Sessions Judge, Ludhiana. However, vide judgment dated 22.07.2009, the appeal filed by the petitioner had been dismissed by the learned Additional Sessions Judge, Ludhiana. Still aggrieved, the petitioner has preferred the present revision petition.

As per the prosecution case, the petitioner had applied for the post of Special Police Officer (SPO) in District Ludhiana by filling up Form No.002227, mentioning his date of birth as 21.02.1996. Original matriculation certificate was also attached, which also contained the petitioner's date of birth as 21.02.1966. Later on, the petitioner, on having been allotted the Constable Number, was transferred to Ferozepur. Thereafter, the Deputy Inspector General of Police (DIG), Ferozepur, had sent the petitioner's matriculation certificate along with certificates of some other candidates to the Punjab School Education Board, Mohali, for enquiry regarding their date of births. Pursuant thereto, inquiry report was received from the Punjab School Education Board, Mohali, holding that the petitioner had changed his date of birth from 04.02.1964 to 21.02.1966, after erasing the same. Thus, it was alleged that the petitioner had obtained the job fraudulently. It was further alleged that in this regard, a letter was also written to Senior Superintendent of Police, who after obtaining legal opinion of the Deputy District Attorney Legal, ordered registration of a criminal case against the petitioner. Accordingly, FIR in this case was registered.

After completion of the investigation, challan was presented in the Court. Having found a prima-facie case, charges under Sections 465, 468 and 471 IPC were framed against the accused.

The prosecution had, in order to bring home the guilt of the accused, examined as many as seven witnesses.

Statement of the accused under Section 313 Cr.P.C. was recorded wherein he stated that he had falsely been implicated and claimed trial.

The learned trial Court had, as noticed above, convicted and sentenced the petitioner-accused under Sections 465, 468 and 471 IPC. The appeal filed by him was dismissed by the learned Additional Sessions Judge, Ludhiana, vide judgment dated 22.7.2009.

Learned counsel for the petitioner has vehemently contended that while passing the impugned judgments and order, the learned Courts below did not take into consideration that there was no direct evidence on record to connect the petitioner with the offence of forgery. Merely because the date of birth of the petitioner did not tally with his date of birth in the Official Gazette, is no ground to record the conviction of the petitioner. While referring to the testimony of PW7-Varinder Madaan, official of the Punjab School Education Board, it has been contended that the said witness had only proved the signatures of the Secretary in the Official Gazette and that the said witness had also admitted in his cross-examination that the said Official Gazette was also subject to human error and omission. Still further, it is argued that it was not proved on record as to who had tampered with the petitioner's date of birth in the matriculation certificate.

On the other hand, the learned State Counsel has argued that the findings recorded by the learned Courts below are based on the evidence on record and that the petitioner could not prove that there could be any other person liable for

tampering with the date of birth. While defending the findings recorded by the Courts below, it has been argued that PW7-Varinder Madaan, had brought the original Gazette and had testified about the accused-petitioner having appeared in the Matriculation Exam. Thus, on the basis of the said record, it stood proved on record that there was tampering in the date of birth of the petitioner.

I have heard learned counsel for the parties. However, I do not find any merit in the present revision petition.

Indisputably, the entry in the matriculation certificate produced by the petitioner for obtaining the job of SPO, contained a different date of birth than the one recorded in the original record of the Punjab School Education Board. Both the Courts have found that the date of birth of the petitioner in the Official Gazette was 4.2.1964, whereas the date of birth entered in the certificate produced by the petitioner for obtaining the job was mentioned as 21.2.1966. It was further found that the minute observation of the Certificate Dx.P1 even with the naked eye, showed that the other writing with the black pen on the Certificate was with light ink whereas the writing pertaining to the date of birth was with dark ink and that both the handwritings were different. It was further found that it was only the accused-petitioner, who was interested and beneficiary in making the said change in order to obtain the job of SPO and no one else can be said to have made the said alteration.

In my considered opinion, it could not be pointed out by the learned counsel for the accused-petitioner that any person other than the petitioner could have done the alteration

in the date of birth. The petitioner could not show that the said tampering had been done with a view of to cause any illegal loss to the petitioner and/or illegal gain to someone else. It could also not be shown as to anyone had to gain in any manner by making the alteration in the matriculation certificate of the petitioner. Still further, it could also not be established that said certificate had been in possession of any other person so as to attribute such alteration to that person. The situation, thus, appears set that it was the accused-petitioner alone, who had done the alteration i.e. change of date of birth in the matriculation certificate. Still further, the altered date of birth is nearly two years more than the original date of birth. This circumstance also leads to a conclusion that by showing himself younger, the intention on the petitioner-accused was to make him eligible for the job and/or to stay for a longer period in the service before reaching the age of superannuation. For all these reasons, I find that the findings recorded by the Courts below are perfectly justified requiring no interference by this Court.

However, at this stage, learned counsel for the petitioner submits that the petitioner is a poor person belonging to the Scheduled Castes community. He is having three school going children and is earning his livelihood by doing the labour work. The petitioner has already undergone 1 month and 15 days out of the total sentence of two years imposed upon him. Thus, the learned counsel prays that the sentence imposed upon the petitioner-accused may be reduced to the period already undergone by him.

The Hon'ble Supreme Court in Munilal Mochi Vs. State of Bihar and another, 2011(3) RCR (Criminal) 702, while considering the conviction recorded and sentence imposed upon the accused therein for the offences under Sections 400, 467, 468, 468 and 471 IPC, had reduced the sentence of 1-1/2 years to the period already undergone. It was held as under:-

“9. It is not in dispute that the occurrence related to period 1982-83. Even on 01.10.2003, he retired from the post of Deputy Collector, Nalanda and stood convicted by the trial Court as aforesaid only in 2004, i.e., after a long period of 21 years. As rightly pointed out by Mr. Nagendra Rai, he had undergone the ordeal of facing trial anticipating uncertainty about the nature of conviction for such a long period. It is true that the appellant was not named in the FIR. However, after a period of 5 years, when the prosecution filed a chargesheet, he was shown as 3<sup>rd</sup> accused. As rightly pointed out by Mr. Rai, the appellant had reeled under the threat of being convicted and sentenced for all these 21 years. Even the High Court had taken more than 6 years to dispose of the appeal. As on date, the appellant is 71 years of age and has already undergone 6 months imprisonment. If we consider the date of occurrence, 29 years have been passed now. There is no record to show that the appellant was involved in other criminal case. Considering the case of the prosecution, namely, several illegalities and irregularities in execution of NREP which is a Scheme formulated by the Government of India, the fact that the occurrence relates to the year 1982-83, the trial went for 21 years and ended in conviction in 2004, the appellant retired

from service even before conviction and his appeal was kept pending in the High Court for nearly 6 years, taking note of his present age, namely, 71 years and undergone 6 months imprisonment, we feel that ends of justice would be met by modifying the sentence to the period already undergone.”

The FIR in this case was registered on 24.1.1998. In this way, the petitioner has been facing the agony of trial for more than 20 years. For the guilt ascertained on the part of the accused-petitioner, he has already suffered a lot including his removal from the Government service. Hence, in my opinion, no useful purpose would be served by sending the petitioner behind the bars once again. Ends of justice would be fully met, if the sentence imposed upon the petitioner-accused is reduced to the one already undergone by him.

In view of the above, while upholding the conviction of the petitioner under Sections 465, 468 and 471 IPC, the substantive sentence imposed upon the petitioner is reduced to the one already undergone by him. However, the fine imposed shall remain intact.

Disposed of in the above terms.

**(HARNARESH SINGH GILL)**  
**JUDGE**

April 03, 2019  
ds

Whether Speaking/ Reasoned:  
Whether Reportable:

Yes/ No  
Yes/ No