

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-4605-2015 (O&M)

Date of Decision: 07.01.2019

Avtar Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Vikasdeep Singh, Advocate for the petitioner.

Mr. AS Gill, DAG, Punjab.

RAMENDRA JAIN, J. (ORAL)

Through this revision, the petitioner has laid challenge to the judgment dated 28.10.2015 of the Ist Appellate Court, whereby judgment of conviction and order of sentence dated 04.03.2013 of the trial Court, holding the petitioner guilty under Sections 419, 465, 468, 471 and 177 IPC, was set aside. Resultantly, petitioner was acquitted of the aforesaid charges, but convicted under Section 12 of the Passport Act, 1967 (for short-'the Act') and sentenced to undergo rigorous imprisonment for two years and to pay a fine of ₹ 2000/-. In default thereof, to further undergo rigorous imprisonment for one month.

Briefly, on 31.07.2009, Passport Officer, Jalandhar got registered FIR No. 251 dated 31.07.2009, under Sections 419, 420, 465, 468, 471 and 120-B IPC and Section 12 of the Act at Police Station Division No. 4, Jalandhar, on the allegations that petitioner by

committing forgery applied for duplicate passport on the basis of DDR No. 19 dated 25.02.2009, lodged at Police Station Goraya, District Jalandhar. However, on scrutiny, it was revealed that the petitioner was deported to India on Emergency Certificate No. 4329956 dated 12.01.1996, issued by Embassy of India, Warsaw (Poland), with no further passport facilities to him on finding that petitioner had gone to United Kingdom (U.K.), illegally on forged travel documents. On his arrival at Amritsar, the petitioner was arrested by Airport Authorities. During interrogation, the petitioner admitted that he had gone to Poland in the year 1996, on the basis of false name i.e. Jagtar Singh S/o Surinder Singh and was deported to India. His actual name was Avtar Singh. Therefore, the petitioner had committed the offence of forgery and violated the terms and conditions of the passport.

On completion of investigation, final report under Section 173 (2) Cr.P.C. was filed against him in the trial Court. After holding trial, vide judgment of conviction and order of sentence dated 04.03.2012, the trial Court held the petitioner guilty under Sections 419, 465, 468, 471 and 177 IPC and sentenced as under:-

<i>Under Section 419 IPC</i>	To undergo rigorous imprisonment for a period of two years.
<i>Under Section 465 IPC</i>	To undergo rigorous imprisonment for a period of two years.
<i>Under Section 468 IPC</i>	To undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.2000/-. In default thereof, to further undergo rigorous imprisonment for one month.
<i>Under Section 471 IPC</i>	To undergo rigorous imprisonment for a period of two years.
<i>Under Section 177 IPC</i>	To undergo rigorous imprisonment for a period of three months.

All the substantive sentences were ordered to run concurrently.

Being aggrieved, the petitioner preferred an appeal against the aforesaid judgment of conviction and order of sentence of the trial Court. The Ist Appellate Court, vide judgment dated 28.10.2015, while acquitting the petitioner under Sections 419, 465, 468, 471 and 177 IPC, convicted and sentenced him under Section 12 of the Act, as narrated above in the opening part of the judgment.

Learned counsel *inter alia* contends that to prosecute the petitioner under Section 12 of the Act, necessary permission from Central Government, was required which was never obtained. Therefore, the impugned judgment of the Ist Appellate Court, is liable to be set aside. In support of his contention, learned counsel for the petitioner has relied upon a judgment of this Court in **Manpreet Singh Vs. State of Punjab, 2012 SCC OnLine P&H 23785.**

On the other hand, learned State counsel has fairly conceded to the submission of learned counsel for the petitioner.

Having given thoughtful consideration to the submissions made by both the sides, this revision merit acceptance for the reasons to follow:-

Section 15 of the Act, envisages that to prosecute a person under Section 12(1) of the Act, necessary permission is required from the Central Government. The Central Government, has further delegated its such power to the State Government, vide notification No. GSR 662(E), Ministry of External Affairs, Government of India, dated 01.02.1979. Therefore, it is evident that the Investigating Officer, was required to

obtain sanction from the State Government to launch prosecution against the petitioner. Admittedly, the same was not obtained in the instant case.

In view of the above factual position, the instant revision is allowed and the petitioner is acquitted of the charges levelled against him.

January 07, 2019
rishu

(RAMENDRA JAIN)
JUDGE

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