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

CRR No.4081 of 2017 (O&M)

Date of decision: July 09, 2019

Anchal Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Vivek Salathia, Advocate for the petitioner.

Mr. Saurav Khurana, DAG Punjab.

Mr. Satvir Singh, Advocate for

Mr. A.S. Manaise, Advocate for respondent No.2.

MAHABIR SINGH SINDHU, J (Oral)

The present revision petition has been filed by the petitioner against the impugned judgment dated 09.10.2017 passed by the learned Additional Sessions Judge, Gurdaspur (for short 'ASJ'), whereby an appeal preferred by the petitioner was dismissed and the judgment of conviction as well as order of sentence dated 04.07.2016, under Section 170 of the Indian Penal Code (for short 'IPC') passed by learned Judicial Magistrate Ist Class, Gurdaspur (for short 'JMIC'), upheld.

Brief facts of the case are that complainant-Nazar Singh filed a complaint under Sections 170, 177, 193, 199 of IPC before learned JMIC alleging that petitioner-Anchal Singh and complainant-Nazar Singh are residents of village Umarpur Kalan. On 26.05.2019, Balbir Singh etc. filed a civil suit No.196 titled as “Balbir Singh and others versus Anoop Singh and others” against complainant and his

brother Pal Singh as well as cousin Anoop Singh. In the said suit, petitioner-Anchal Singh had appeared as PW2 and it is alleged that he wrongly stated in his affidavit that he is Lambardar of village Umarpur Kalan. It has been further alleged that petitioner impersonated himself as Lambardar of village, whereas, actually one Shallo Ram was the Lambardar of the said village, who had died and proceedings for appointment of new Lambardar of the village were pending before revenue authorities. Petitioner applied before Collector for his appointment as Lambardar of the village and as per information received under Right to Information Act vide letter No.4295/Reader dated 17.10.2011, Deputy Commissioner disclosed that Anchal Singh (petitioner) was not Nambardar of the village and thus not authorised to attest public documents as Lambardar. It has been also alleged that petitioner impersonated himself as Nambardar and gave false evidence pretending to hold office of Nambardar of village Umar Kalan.

After conclusion of preliminary evidence of complainant, petitioner was summoned to face trial under Sections 170, 193, 199 of IPC by learned JMIC.

Thereafter, finding a prima-facie case against the petitioner, he was charge-sheeted under Sections 170, 193, 199 IPC, to which he pleaded not guilty and claimed trial.

In support of the prosecution case, oral as well as documentary evidence was led and the same was put to the accused under Section 313 Cr. P.C., wherein he claimed innocence by raising the plea of false implication.

After considering the entire material available on record, and hearing both sides, learned trial Court, convicted the petitioner under Section 170 IPC and sentenced him to undergo Rigorous Imprisonment for one year alongwith fine of ₹1,000/-; in default of payment of fine, further Rigorous Imprisonment for 30 days was also ordered.

Aggrieved against the aforementioned conviction and sentence, petitioner preferred an appeal before the Court of Sessions, but the same was dismissed by learned ASJ, vide judgment dated 09.10.2017. Hence, the present revision petition.

Learned counsel for the petitioner instead of challenging the conviction, confined his prayer only to the extent that petitioner be released on probation.

Learned counsel for respondent No.2 has agreed with the submission of learned counsel for the petitioner and submitted that since matter has been compromised between the parties, therefore, he has no objection in case the petitioner is released on probation.

Heard both the parties and perused the paper-book.

This Court has found that the petitioner is more than 70 years of age and there is no other criminal case pending against him. The sentence of the petitioner was suspended by this Court on 07.11.2017 and he has not misused the concession of bail. The matter has been amicably settled between the parties, i.e. petitioner and respondent No.2-complainant. The offence under Section 170 IPC is

punishable for a maximum period of two years and petitioner has been awarded sentence of one year by both the Courts below and out of which, he has even undergone the actual sentence of one month. Since there is no challenge to the conviction by the petitioner, therefore, keeping in view his age as well as antecedents and provisions of Section 4 of Probation of Offenders Act, 1958, this Court deems it appropriate to maintain the conviction under Section 170 IPC, but release him on probation for a period of one year. It also needs to be clarified here that fine has already been paid by the petitioner, as is clear from the order of sentence passed by learned JMIC.

In view of the above, the present revision petition is partly allowed. Conviction of the petitioner under Section 170 IPC, is upheld and he is ordered to be released on probation for a period of one year on his furnishing personal bonds in the sum of ₹25,000/- with one surety in the like amount to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, concerned, with an undertaking that during the period of one year, he shall not commit similar or any other offence; maintain peace, harmony and be of good behaviour.

Pending miscellaneous applications, if any, shall also stand disposed off.

(MAHABIR SINGH SINDHU)
JUDGE

July 09, 2019

mahavir

Whether speaking/ reasoned: **Yes**

Whether Reportable: **Yes**