

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-17041-2012 (O&M)
Date of Decision: March 13, 2020

Sukhpal Singh Bhullar

.....Petitioner

Versus

State of Punjab & Another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Jasdeep Singh Gill, Advocate, for the petitioner.

Mr. Harpreet Singh Multani, AAG, Punjab,
for respondent No.1-State.

Mr. Vikram Chaudhari, Senior Advocate, with
Mr. Sartaj S. Gill, Advocate, for respondent No.2.

Harnaresh Singh Gill, J.

The present petition under Section 482 Cr.P.C. seeks quashing of FIR No. 62 dated 27.05.2012 registered under Sections 420, 465, 467, 468, 471 at Police Station Valtoha, District Tarn Taran (Annexure P.1) and all consequential proceedings arising therefrom.

The aforesaid FIR had been got registered by respondent No.2-complainant with the allegations that the date of birth certificate, PAN Card and passport of the petitioner showing his date of birth as 24.06.1978 had been forged with a view to contest the election of the President, Youth Congress (I) in the year 2011 as the maximum age limit prescribed was 35 years; that the petitioner got issued an Arm Licence No.

251/PS/Valtoha by the Deputy Commissioner, Amritsar on 12.12.1996 and the same could have only been issued if the petitioner was of the age 21 years, wherein his age was recorded as 25.06.1975. It was, thus, alleged that the date of birth certificate dated 24.06.1975 is genuine whereas the date of birth certificate dated 24.06.1978 is a forged document.

After registration of the FIR, the police had conducted the investigation and found both the aforesaid certificates to have been issued by the authorities concerned against proper entries. It was found by the Investigating Officer that the certificate showing the date of birth as 24.06.1978 was having the surname of 'Bhullar' written on it and, thus, the same was, as per the Investigation Officer, forged one. It was further found that only person more than 21 years of age can be issued an Arm Licence; that the said licence having been issued in the year 1996, might have been issued on the basis of the certificate showing the date of birth as 24.06.1975.

Learned counsel appearing for the petitioner argues that the aforesaid FIR had been registered by the complainant against the petitioner with a view to avenge upon him as the complainant had been disgruntled at not getting the assembly ticket from Valtoha in 2012, which was given to the petitioner's father and that complainant-respondent No.2 himself being overage was not eligible to contest the Youth Election. While terming the investigation conducted by the Police as bias and unfair, it is submitted that during the course of investigation,

the petitioner had produced matriculation certificate, which records the date of the petitioner as 24.06.1978. It is further submitted that such date of birth of the petitioner has been recorded in matriculation, Class-XII, degree of Bachelor of Laws issued by Panjab University and the passport of the petitioner.

It is further submitted that once the police during investigation had found the certificate showing date of birth as 24.06.1978 having been issued by the authorities concerned against a genuine and property entry, there was no occasion for the police to register the FIR. It is further submitted that the date of birth of the petitioner as 24.06.1978 had been got registered by the parents of the petitioner in the year 1979 and all the certificates i.e. Pan Card, Driving Licence, Passport etc., had been issued recording the date of birth of the petitioner as 24.06.1978.

While coming to another certificate showing the date of birth as 24.06.1975, it is submitted that the said certificate is genuine one; that the said certificate was issued in respect of the earlier issue born to the parents of the petitioner, who died within three months of his birth and that it was a sheer coincidence that date and month in the said certificate are same as are in the certificate indicating the date of birth as 24.06.1978. It is further submitted that though the petitioner had submitted all the said details to the investigating agency, but the Investigating Officer did not bother to probe the said aspect of the matter.

It is further submitted that no prudent person would come to a conclusion that the petitioner would commit the offence of forging his date of birth presuming therein that in the year 2011, he would be contesting the elections of the President Youth Congress (I) as by then, he might be 1 year overage.

Regarding the issuance of the Arm Licence, it is submitted that the village of the petitioner being disturbed area during the peak of militancy, the Deputy Commissioner, Amritsar had allowed issuance of such licence under exceptional circumstances, but the petitioner has denied having submitted the certificate showing his date of birth as 24.06.1975 for issuance of the said licence.

In support of his contentions, learned counsel for the petitioner relies upon the judgment of the Hon'ble Supreme court in State of Haryana Vs. Ch. Bhajan Lal, 1991(1) RCR 383,

Per contra, learned Senior Counsel appearing for respondent No.2 has argued that as the present petition raises disputed questions of facts the same cannot be adjudicated upon in the present proceedings. It is further submitted that the Voter List for the Lok Sabha constituency 022-Khem Karan was prepared wherein the petitioner's age had been mentioned as 38 years and the said age was only possible if the date of birth of the petitioner was mentioned as 24.06.1975.

Still further, it is argued that as per the provisions of the Arms Act, only a person aged 21 years and above is legally entitled to be issued arm licence and thus, such licence issued

on 13.12.1996 was issued making the certificate showing date of birth of the petitioner as 24.06.1975.

It is further argued that though the petitioner claims that the certificate showing date of birth as 24.06.1975 was in respect of the earlier child of the parents of the petitioner, who was stated to have died within three months, yet no death certificate to this respect was produced on record nor was any death entry in this regard had been entered in the record of the authorities concerned.

In support of his contentions, the learned Senior Counsel for complainant-respondent No.2 has relied upon the judgment of the Hon'ble Supreme Court in State of Bihar and another Vs. Shri P.P. Sharma and another, 1992 SCC (Cr1.) 192 and a judgment of this Court in Meena Mandal and others Vs. Santosh Devi, CRM-M-12102-2013 decided on 11.02.2020.

The learned State Counsel, while toeing the line of the learned Senior Counsel for complainant-respondent No.2 submits that whether or not the certificate dated 24.06.1978 was genuine one, is to be examined by leading evidence by the parties during the course of trial and the petitioner cannot be granted any relief in this regard in the present proceedings.

After having heard the learned counsel for the parties, I am of the view that the continuing with the present proceedings would be nothing but a clear abuse of process of law.

While examining the issue involved, suffice it to say that during the course of investigation, both the certificates showing date of birth as 24.06.1975 and 24.06.1978, were found to have been issued by the authorities concerned against the proper entries. Thus, the only question that requires to be examined is whether or not the petitioner had forged the certificate showing his date of birth as 24.06.1978.

As would appear from the record, in the records of the Municipal Corporation, Amritsar, the date of birth 24.06.1978 was entered vide entry dated 12.07.1978. The petitioner passed his matriculation examination in the year 1993. The petitioner's date of birth is reflected as 24.06.1978 in the matriculation certificate dated 21.06.1993. The same is the date of birth reflected in the PAN Card issued to the petitioner in the year 1994-95. The passport of the petitioner that was issued to him on 20.04.2004, also contains the petitioner's date of birth as 24.06.1978. This goes to show that the petitioner's date of birth is 24.06.1978 and not 24.06.1975, as had the date of birth of the petitioner been 24.06.1975, he would not have been in possession and could not have been issued the matriculation certificate as also Pan Card and passport reflecting the petitioner's date of birth as 24.06.1978.

The matter can be looked for another angle. Assuming for the sake of discussion that the certificate reflecting the petitioner's date of birth as 24.06.1978 is forged, even then a man of common prudence would, before coming to such

assumption, would lay emphasis on two material aspects i.e. firstly, whether the entry 24.06.1978 is ante-dated? and secondly, whether the documents i.e. matriculation certificate, Pan Card and passport had been (got) issued by using the said ante-dated certificate? The answers to both these questions are in negative. Thus, it would be preposterous to hold that the certificate showing date of birth as 24.06.1978 is a forged document or such document had been got issued with a view to commit any fraud or cheating.

I find merit in the contention of the learned counsel for the petitioner as to how the petitioner's parents in the year 1979, while getting his date of birth as 24.06.1978 entered, would presume that one day in the year 2011, the petitioner would be contesting the elections by using a wrong date of birth. As regards the certificate dated 24.06.1975, which the petitioner claims to have been issued in respect of an earlier male issue born to his mother (who statedly died just three months after his birth), the police has also found that the said certificate is genuine, but brushed aside such aspect of the matter for the reason that no death certificate had been produced by the petitioner. However, it is not the case of the police that they had verified from the hospital of Municipal authorities that no such male issue had been born to the mother of the petitioner.

Now coming to the issuance of the Arm Licence dated 13.12.1996. The case of the petitioner is that he had submitted the certificate showing his date of birth as 24.06.1978 for

issuance of the Arm Licence, whereas the complainant and the police plead otherwise i.e. the petitioner got the said licence issued by showing his date of birth as 24.06.1975. Admittedly, the records relating to the issuance of the Arm Licence stands destroyed by the office of the Deputy Commissioner, Tarn Taran. Thus, in the absence of the records, it cannot certainly be said that the said licence had been issued by using the certificate reflecting the petitioner's date of birth as 24.06.1975.

The Hon'ble Supreme Court in Pepsi Foods Ltd. and another Vs. Special Judicial Magistrate and others, (1998)5 SCC 749, while relying upon its previous decisions, including the one delivered in Ch. Bhajan Lal's case (supra), while setting aside the order passed by the High Court held that if there is no substance in the allegations in the complaint, then the High Court would be well within its right to quash the proceedings. The observations made by the High Court that at the stage of taking cognizance by the Magistrate, it cannot be said that the allegations in the complaint are so absurd and inherently improbable on the basis of which no prudent man can ever reach a just conclusion that there exists no sufficient ground for proceedings against the accused, were set aside.

If the facts of the case are sifted, it would emerge that the registration of the FIR against the petitioner only on the basis of presumption of the Investigating Officer that in the certificate showing the date of birth as 24.06.1978, sir name of the petitioner i.e. 'Bhullar' is mentioned, is legally untenable.

Such observation is further strengthened from the very fact that both the certificates showing the date of birth as 24.06.1975 and 24.06.1978 were found to have been issued against proper and genuine entries recorded in the records of the authorities. Still further, there being no allegations as regards the said certificates being ante-dated, no mala-fide intention can be presumed on the part of the petitioner.

In view of the above, the present petition is allowed and the FIR along with all consequential proceedings arising therefrom is hereby quashed.

(HARNARESH SINGH GILL)
JUDGE

March 13, 2020
ds

Whether Speaking/ Reasoned:	Yes/ No
Whether Reportable:	Yes/ No