

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1246-2015

Date of decision : 07.12.2022

Naresh

..... Petitioner

versus

U.T. of Chandigarh

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. R.K. Dhiman, Advocate
for the petitioner.

Mr. J.S. Toor, APP U.T., Chandigarh

PANKAJ JAIN, J.

Present revision petition has been filed against the judgment passed dated 21.02.2015 passed by Additional Sessions Judge, Chandigarh whereby appeal preferred by the petitioner has been partly allowed acquitting him of offences punishable under Sections 465 and 468 of IPC, while affirming the judgment of conviction for offences punishable under Sections 420 and 471 of IPC.

2. As per the case of the prosecution, a complaint dated 22.01.2007 was received from Director Sports and Youth Affairs Department, Haryana against the petitioner. It was alleged that the petitioner secured job as Clerk on the basis of forged document i.e. matriculation certificate No.164199 bearing roll No.837642 given by him which was got verified from Punjab School Education Board, Mohali and the said Board vide its letter dated 12.10.2006 informed that none of the candidate was issued roll No.837642 and thus the certificate is not correct.

The complainant stated that the petitioner on the basis of wrong certificate

has secured the job and availed government benefits and has thus, intentionally misled and cheated the government.

3. Trial Court found the petitioner guilty holding that:-

“xx xx xx

The prosecution in this case has examined the concerned official of the Punjab School Education Board as well as IO and both these witnesses have supported the version of the prosecution and from their entire evidence only one thing is clear that the accused has never appeared in the matriculation examination and the certificate is a forged one and moreover it is the cardinal principal of law that it is not the quantity of the witnesses which matters but in the quality of the witnesses that matters and in the present case both these witnesses have been cross examined but nothing fruitful has come out from file from which it can be said that the accused is innocent and the mark sheet is a genuine one.

In view of my above said discussion as well as from the evidence on record, it is clear that accused has forged the mark sheet and submitted the same to the Department of Sports and Youth Affairs Haryana and thereby cheated the said department and has committed the offence under Section 420, 465, 468, 471 IPC.”

4. In appeal, the Appellate Court found that there is no evidence on record to prove that the forgery qua the documents in question was committed by the accused himself and acquitted him of offences punishable under Sections 465 and 468 of IPC. It upheld the finding of guilt for offences punishable under Section 420 and 471 of IPC and reduced the sentence to 09 months for each of two offences from 01 year

awarded by the Trial Court.

5. Counsel for the petitioner has vehemently argued that the testimonials of the petitioner were checked and got verified at the time of employment. After about a delay of 08 years, the instant FIR was lodged. There is no evidence on record to prove that the documents in question are forged by the petitioner. The petitioner himself offered to give his specimen signatures to the handwriting expert for the purpose of comparison. He further submits that rather the statement of PW-1 Nirpjeet Singh demolishes the whole case of the prosecution. In order to hold petitioner guilty of offences punishable under Sections 420 and 471 IPC, it was incumbent upon the prosecution to prove that the petitioner was in the knowledge of the documents being forged. Such evidence having not brought on record, the petitioner cannot be held guilty of offences punishable under Sections 471 and 420 of IPC. He further submits that the petitioner has been suffering prolonged protracted trial for more than 15 years and has undergone actual custody of 03 months and 05 days. He is first time offender. He is never stated to have misused the concession of bail granted during the trial or concession of suspension of sentence granted by this Court.

6. In support of his prayer, counsel for the petitioner relies upon ***Jagdish Chander vs. State of Delhi*** reported as ***AIR 1973 2127*** wherein the Apex Court taking in view the mitigating circumstances, reduced the sentence of imprisonment from six months to a period of three weeks of imprisonment already undergone by the accused. He further relies upon ***Nand Ballabh Pant vs. State (Union Territory of Delhi)*** reported as ***AIR 1977 890*** wherein the accused, convicted under Section 304-A of IPC,

was sentenced to two months RI and the same was reduced by Supreme Court to one month and the fine was enhanced from Rs 500 to Rs 1,000.

7. Further reliance has been placed upon the orders passed by Coordinate Bench in *Criminal Revision No.843 of 1995 titled as Nirmal Singh @ Pappu Vs. State of Haryana* decided on 04.03.2008, wherein the sentence of convict under Section 304-A was reduced to already undergone. He further relies upon **CRR-1931-2010** decided on 23.07.2019 titled as '**Chander Bhan vs. State of Haryana**' wherein considering the factum of law laid down by Apex Court in **State of Punjab vs. Saurabh Bakshi** reported as **2015(2) RCR Criminal** this Court reduced the sentence to the period actually undergone.

8. Counsel for the State on the other hand submits that the guilt of the petitioner has been proved on record without grain of doubt. The testimonials were admittedly relied upon by the petitioner to procure employment and thus at this stage, he cannot be allowed to state that even if the documents have been found to be forged, the knowledge of the same cannot be attributed to him. He further submits that once the documents were found to be forged, Section 106 of the Evidence Act would pitch in and onus laid heavily upon him to prove that he appeared for the matriculation examination and the testimonials indeed belong to him.

9. I have heard learned counsel for the parties and have carefully gone through the record of the case. Counsel for the petitioner has not been able to point out any evidence on record to show that the petitioner got these documents from the Education Board and thus knowledge of the same being forged is not attributable to the petitioner. Prosecution has brought on record official documents which clearly

proved that the documents are forged and the same were admittedly utilized by the petitioner to secure employment. In view of these facts, no fault can be found with the findings of conviction recorded by the Appellate Court qua offences punishable under Sections 420 and 471 of IPC.

10. The petitioner has already undergone actual sentence of 3 months and 05 days. He is a first time offender. There is no case pending against him. He is stated to have never misused concession of bail or concession of suspension of sentence. He has already faced protracted trial for last 15 years. Considering all these facts cumulatively, sentence awarded by the Courts below is modified to already undergone.

11. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

07.12.2022

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No