

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

**CRR-1162 of 2016 (O&M)
Date of Decision: 22.08.2022**

Laxmi Chand

...Petitioner

Versus

U.T. of Chandigarh

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Anurag Chopra, Advocate
For the petitioner.**

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

KARAMJIT SINGH, J.

CRM-29855 of 2022

Application is allowed and Annexure P-1 is taken on record
subject to all just exceptions.

CRR-1162 of 2016

The petitioner Laxmi Chand has filed this revision petition against the judgment dated 06.06.2015 passed by the Court of Judicial Magistrate Ist Class, Chandigarh in Criminal case having FIR No. 439 dated 29.12.2013, under Sections 420, 467, 468, 471 and 120-B IPC, Police Station Sector-11, Chandigarh. whereby the petitioner was convicted and sentenced to the rigorous imprisonment for one year under Section 420 IPC, rigorous imprisonment for two years and to pay fine of Rs.1000/- and in default of non-payment of fine to under simple imprisonment for 15 days under Section 468 IPC and rigorous imprisonment for two years and to pay fine of Rs.1000/- and in default of non-payment of fine to under simple

imprisonment for 15 days under Section 471 IPC and judgment dated 04.03.2016 passed by the Court of Additional Sessions Judge, Chandigarh whereby the appeal filed by the petitioner against the aforesaid judgment and order was dismissed.

The brief facts of the case are that Chief Vigilance Officer, Post Graduate Institute of Medical Research, Chandigarh (for brevity, PGI) gave a complaint to Police Head Quarter, Sector-9, Chandigarh wherein it was alleged the Senior Accounts Officer of PGI had made a complaint regarding issuance of fake certificates in the name of Shamsheer Singh, Technician Grade-2, Jagjit Kaur Nurse, Prem Chand Dietician, petitioner Laxmi Chand Lab Technician, Mahinder Singh Technician Grade-2, on behalf of the aforesaid Senior Accounts Officer. The said salary certificates were found to be fake. On the basis of said complaint, FIR was registered and the matter was investigated and the petitioner was arrested and after completion of investigation challan was presented in the Court concerned.

The trial Court framed charges under Section 420, 467, 468, 471 and 120-B IPC to which the petitioner did not plead guilty and claimed trial.

In order to prove its case prosecution examined PW1 T. Joshi, Assistant GEQD, PW2 Devinder Pal Singh, PW3 Dilbahadur Thapa, PW3 (wrongly written) Pala Ram, PW5 SI Sukhdyal Singh, PW6 SI Manjit Singh, PW7 Gaurav Duggal, PW8 Sushil Kumar and PW9 Tilak Raj Sharma.

The accused was examined under Section 313 Cr.P.C. and he denied the entire incriminating evidence appearing against him and pleaded innocence.

After hearing the counsel for the parties the trial Court convicted and sentenced the petitioner as has been detailed above, vide judgment and order dated 06.06.2015.

Being aggrieved the petitioner filed the appeal which was dismissed by the Court of Additional Sessions Judge, Chandigarh vide judgment dated 04.03.2016.

Being not satisfied, the petitioner has filed the present revision petition.

I have heard the counsel for the petitioner as well as APP appearing on behalf of U.T. Chandigarh.

The counsel for the petitioner has submitted that there were allegations against the petitioner that he procured fake salary certificate and on the basis of the said fake document he availed loan from Citi Bank. The counsel for the petitioner has further submitted that the trial Court acquitted the petitioner of an offence under Section 467 IPC while holding that prosecution has failed to prove that the disputed signatures were that of the petitioner. The counsel for the petitioner has further submitted that as the prosecution failed to prove the charge of forgery against the petitioner, his conviction under Section 468 IPC is not sustainable. The counsel for the petitioner has further submitted that co-accused Jagjit Kaur who also faced similar charges and convicted by the trial Court. The counsel for the petitioner has further submitted that the appeal filed by said Jagjit Kaur was partly accepted and she was acquitted of the offence punishable under Section 468 IPC while her conviction under Section 420 and 471 IPC was upheld and she was granted concession of probation by the Appellate Court vide judgment dated 13.09.2017, copy of which is already been taken on record.

The counsel for the petitioner has further submitted that the petitioner has already repaid the aforesaid loan and now nothing is due against him. The counsel for petitioner has further submitted that the petitioner was taken into custody in this case on 04.03.2016 when his appeal was dismissed and was released on bail on 19.10.2016. The counsel for the petitioner has further submitted that the petitioner is not a previous convict. The counsel for the petitioner has further made prayer that petitioner be also given concession of probation.

Mr. J.S. Toor, APP UT Chandigarh has not disputed the fact that the petitioner has repaid the entire loan amount to the concerned bank. He has also not refuted the fact that co-accused Jagjit Kaur was released on probation by the first Appellate Court vide judgment dated 13.09.2017.

The trial Court while passing judgment dated 06.06.2015, acquitted the petitioner under Section 467 IPC while observing that prosecution has failed to prove that the petitioner has prepared the forged document i.e. salary certificate and further failed to prove that the said document was forged by the petitioner by appending his signatures on it. Admittedly, the first Appellate Court vide its judgment dated 13.09.2017 acquitted the co-accused Jagjit Kaur under Section 468 IPC by observing that when the offence under Section 467 IPC is not proved then the offence under Section 468 IPC could not be made out against the accused person. This Court also endorses the aforesaid view taken by the first Appellate Court while passing judgment dated 13.09.2017. So, the present petitioner is entitled to be acquitted for an offence under Section 468 IPC.

In view of the above, the petitioner is hereby acquitted of the offence punishable under Section 468 IPC, while his conviction under Section 420 and 471 IPC is upheld.

Admittedly, the petitioner is having no criminal antecedents. There is no dispute regarding the fact that petitioner has already repaid the entire loan amount to the concerned Bank. From the perusal of judgment dated 13.09.2017 passed by the Court of Additional Sessions Judge, Chandigarh, it is clear that co-accused Jagjit Kaur who was also facing similar charges, was given concession of probation by the first Appellate Court. So, this Court is of the view that it is a fit case to grant of concession of probation to the petitioner.

Consequently, the present revision petition is partly allowed and while upholding the judgments of conviction of the petitioner under Sections 420 and 471 IPC by the Courts below, the petitioner is ordered to be released on probation of good conduct for a period of one year on his furnishing a personal bond in sum of Rs. 25,000/- with one surety in the like amount, to the satisfaction of the trial Court undertaking therein that during the period of probation the petitioner shall not indulge in any criminal activity and shall maintain good behavior and would come and receive sentence during the said period on breach of any of the conditions of the bond. The requisite probation bonds be furnished before the trial Court by the petitioner within a period of one month from today, failing which the revision petition shall be deemed to have been dismissed.

22.08.2022
Jiten

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No