

2024:PHHC:104569



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

245

CRR 2126 of 2009 (O&M)
Date of Decision: 08.08.2024

Gurdeep Singh		...Petitioner
	Versus	
State of Punjab		... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Sunil Chadha, Sr. Advocate with
Ms. Tanvi Dhull, Advocate, for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present revision petition against the impugned judgment dated 21.07.2009 passed by the Court of Additional Sessions Judge, Patiala and the judgment of conviction and order of sentence dated 30.04.2008 passed by the Judicial Magistrate 1st Class, Patiala, whereby, the petitioner was convicted for the commission of the offence under Sections 420, 467, 468 and 471 IPC and was sentenced as under:-

<i>Under Sections</i>	<i>Imprisonment</i>
<i>420 IPC</i>	<i>To undergo rigorous imprisonment for</i>
	<i>a period of three years and to pay a</i>
	<i>fine of Rs. 1000/- and in default of</i>

	<i>payment of fine to undergo further rigorous imprisonment for a period of two months.</i>
467 IPC	<i>To undergo rigorous imprisonment for a period of three years and to pay a fine of Rs. 2000/- and in default of payment of fine to undergo further rigorous imprisonment for a period of two months.</i>
468 IPC	<i>To undergo rigorous imprisonment for a period of three years and to pay a fine of Rs. 1000/- and in default of payment of fine to undergo further rigorous imprisonment for a period of one month.</i>
471 IPC	<i>To undergo rigorous imprisonment for a period of two years and to pay a fine of Rs. 1000/- and in default of payment of fine to undergo further rigorous imprisonment for a period of one month.</i>

2. At the very outset, learned senior counsel appearing on behalf of the petitioner contends that the petitioner does not wish to challenge the conviction recorded by the trial Court as well as the appellate Court; however, some leniency may be shown while awarding the sentence to the petitioner. Even though, the petitioner has not challenged his conviction, still this Court has examined the

legality of the impugned judgments of conviction passed by the trial Court as well as appellate Court.

3. The FIR in the present case was registered on the basis of the letter 14361/Steno dated 22.09.1999, which was submitted by the Commandant, 5th Commando Battalion, Bahadurgarh, Patiala to the Senior Superintendent of Police, Patiala. It was mentioned that C. Gurdeep Singh No. IRB-1/297 now 5-C/445 produced his 10th class certificate issued by the Punjab School Education Board, SAS Nagar, Mohali. After the process for recruitment, the matriculation certificate was sent to the Secretary, Punjab School Education Board, Mohali, for verification by the Commandant, 1st IRB Bn. Patiala vide letter No. 10404/CRC dated 14.11.1995. Vide communication No. 6557/Inquiry Certificate No. 499/98 dated 10.09.1998, the board sent a report regarding matriculation certificate and reported that as per the relevant result/gazette notification, the date of birth of Gurdeep Singh son of Ram Chand accused was 04.02.1971 and not 04.02.1973. As such, C. Gurdeep Singh by way of cutting by some other wrong means, had shown his age less by two years and had secured the job by using illegal means and had committed a fraud. It was prayed that action may be taken against him and the FIR may be registered.

4. After the registration of the case, the investigation was conducted in the present case and the final report under Section 173

Cr.P.C. was presented against him. After taking into account, the incriminating evidence collected during the course of investigation, the trial Court found that a *prima facie* case under Sections 420, 467, 468 and 471 IPC was made out against the present petitioner and he was ordered to be charge sheeted accordingly.

5. To bring home the guilt against the petitioner, the prosecution examined Prag Jain IPS as PW1, ASI Bhupinder Rai as PW2, Surinder Kaur, Head Mistress as PW3, Prem Lata Junior Assistant as PW4, Sushil Kumar, Senior Assistant as PW5, Joginder Singh, Senior Assistant as PW6, Pritam Singh, Principal Government Senior Secondary School, Leelan Megh Singh as PW7 and Inspector Mohinder Dass as PW8 and thereafter the evidence was closed by the APP.

6. After the closure of the evidence, the statement of the petitioner was recorded under Section 313 Cr.P.C. and he pleaded that he was falsely involved in the present case. In fact, there was a clerical mistake in recording the date of birth at the time of admission in his school. Later on, he got the same corrected. He also produced the birth certificate from the Registrar of Births and his actual date of birth was 04.02.1973 and not 04.02.1971, which is a clerical mistake in the school record and he had mentioned correct date of birth when he joined the service.

7. In defence, petitioner had examined Amarjit Singh as DW1 and the evidence was closed.

8. I have perused the record and the impugned judgments passed by both the Courts.

9. In the present case, it has been alleged by the prosecution that the petitioner/accused had forged his matriculation certificate and instead of 04.02.1971, he had mentioned his date of birth as 04.02.1973. To prove the said charge, the prosecution had examined PW1 Prag Jain, IPS, Commandant and he proved on record Ex. PA and Ex. PB. As per Ex.PA, the date of birth of petitioner was shown as 04.02.1973 and even in the application form Ex.PC, the date of birth was recorded as 04.02.1973. Bhupinder Rai was examined as PW2 and he stated that Harpreet Singh Sidhu, the then DSP, Patiala had entrusted the investigation to him and he had collected the record. He had arrested the accused and the search memo Ex.PE was prepared by him. The prosecution further examined Surinder Kaur, Head Mistress, Government High School, Jandi, District Ludhiana, who produced the admission and withdrawal register, copy of gazette issued by Punjab School Education Board, register of the school showing the marks of the students from Government High School, Leelan Megh Singh and as per the record of the school, the date of birth of the petitioner was 04.02.1971. She proved the certified copy of admission and withdrawal register Ex.PW3/A, original roll number of petitioner as

Ex.PW3/B and copy of the gazette as Ex.PW3/C. She stated that the correct date of birth of the petitioner was shown as 04.02.1971 and by cutting, he had changed it to 04.02.1973. Even, the petitioner had wrongly shown his total score as 384, in stead of 284.

10. Prem Lata, Junior Assistant, 05th Commando Battalion, Bahadurgarh, Patiala, appeared as PW4 and proved on record the service record of the petitioner. Sushil Kumar, Senior Assistant, Police Commando Training, Bahadurgarh proved the dismissal order of the petitioner. Joginder Singh, Senior Assistant, Punjab School Education Board, PW6 compared the result with Ex.PW3/C, which was attested copy of the gazette and as per the record, his date of birth was shown as 04.02.1971 and he had secured 284 marks out of 800 marks. He failed in English as per gazette.

11. The prosecution further examined PW7 Pritam Singh, who was posted as Principal at Government Senior Secondary School, Leelan Megh Singh, who had also proved the date of birth of the petitioner as 04.02.1971 and corroborated the testimony of PW3 Surinder Kaur, Head Mistress and PW6 Joginder Singh, Senior Assistant. The prosecution had further examined Mohinder Dass, Inspector, Women Cell, Mansa, as PW8, who had conducted the investigation in the present case.

12. In the present case, the main allegations against the petitioner was that he had forged his matriculation certificate and had

shown his date of birth as 04.02.1973, i.e., two years less than the actual date of birth and by producing such a certificate, he had cheated the Commandant, 5th Battalion and had induced him to get the petitioner recruited as a constable. He had also produced the forged matriculation certificate, i.e., a valuable security. Further, I have also gone through the findings recorded by the trial Court as well as the appellate Court. Both the Courts below have correctly appreciated the evidence led by both the sides in the light of the settled cannons of law. Apart from that, the Courts have recorded well reasoned findings and there is no ground to deviate from the same. Consequently, the impugned judgment of conviction passed by the trial Court as well as appellate Court are ordered to be upheld.

13. Learned senior counsel appearing for the petitioner submits that the petitioner is facing the agony of trial/appeal since 28.10.1999, i.e., for the last about 25 years. Apart from that, the service of the petitioner has already been terminated by the Punjab Police. Further, at the time of his conviction by the trial Court, he was aged about 34 years. Consequently, at present, the petitioner is aged more than 50 years and is sole bread earner of the family. Consequently, the sentence of the petitioner may be reduced to the period already undergone by him.

14. On the other hand, learned State counsel has vehemently opposed the prayer made by the learned counsel for the petitioner on

the ground that the petitioner was involved in forgery of his matriculation certificate and had committed a fraud with Punjab Police. Consequently, he does not deserve any leniency.

15. I have heard the learned counsel for the parties and perused the record.

16. Vide the impugned order dated 30.04.2008, the petitioner was sentenced to undergo for a period of 03 years and as per the custody certificate, the petitioner has already undergone sentence of more than 04 months. Even, the amount of fine has already been deposited by him. Further, it is apparent from the record that the FIR in the present case was registered on 28.10.1999 and the petitioner has already faced the agony of trial/appeal for the last about 25 years. Even the petitioner had obtained the job of a constable in Punjab Police, however, his service was terminated by the Punjab Police in the year 1999 itself. Thus, taking a lenient view of the matter, the sentence imposed on the petitioner is ordered to be reduced to the period already undergone by him. However, the sentence of fine will remain the same as awarded by the trial Court. The petitioner has already deposited the fine.

17. With the above modifications, the revision is partly allowed and the impugned judgment of conviction of the petitioner is upheld, whereas the order of sentence is modified to the extent that the sentence imposed on the present petitioner is reduced to the period

already undergone by him. However, the sentence of fine will remain the same as awarded by the trial Court. The petitioner has already deposited the fine amount.

18. All pending applications, if any, are disposed off, accordingly.

08.08.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No