

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.4088 of 2012 (O&M)
Date of decision: 23rd August, 2024

Mahjar Khan

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON’BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Gautam Dutt, Advocate for the petitioner.
Mr. Gagandeep S. Chhina, Asst. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J.

1. The petitioner has filed the instant revision petition challenging the order dated 04.12.2012 passed by the Court of learned Additional Sessions Judge, Faridabad. In this order, the appellate Court dismissed the appeal filed by the petitioner against the judgment of conviction and order of sentence dated 13.06.2012 and 14.06.2012, respectively, passed by learned Chief Judicial Magistrate, Faridabad.
2. The learned CJM, Faridabad vide aforementioned judgment of conviction dated 13.06.2012 and the subsequent order of sentence dated 14.06.2012, convicted and sentenced the petitioner as follows:

Under Section	Imprisonment
420 IPC	RI for two years and fine of ₹1000/-. In default of payment of fine, further RI for one month.



468 IPC	RI for two years and fine of ₹1000/-. In default of payment of fine, further RI for one month.
471 IPC	RI for two years and fine of ₹1000/-. In default of payment of fine, further RI for one month.

All the substantive sentences were ordered to run concurrently.

3. The case as presented by the prosecution is summed up as follows:

The FIR was registered on 10.04.2003 based on inquiry No.13 dated 12.07.2000, which was initiated following a complaint by Mohd. Saffi (hereinafter referred to as, ‘the complainant’), a Dispenser at the State Ayurvedic Hospital in village Malayee. The inquiry, led by Inspector Ran Singh of the State Vigilance Bureau (SVB), Haryana, Gurugram, revealed that Mahjar Khan (hereinafter referred to as, ‘the revisionist’), a Dispenser at the Dispensary in village Kondal, had forged complainant’s signatures on a mutual transfer application. This fraudulent application was then submitted to the Govt., resulting in an unauthorized transfer of the complainant, against his wishes. Upon realizing the forgery, the complainant lodged a complaint with the Director of Ayurvedic, Haryana, leading to an investigation conducted by Dr. Madan Mohan, the District



Ayurvedic Officer, Faridabad. This investigation confirmed the forgery, and the specimen signatures of both the complainant and the revisionist were sent to the Forensic Science Laboratory (FSL) in Madhuban. The FSL analysis concluded that the signatures on the application did not match with the complainant's authentic signatures. The investigation further revealed that the revisionist had handed over the forged application to Constable Maksood Ali, a CID Crime Faridabad officer, who subsequently forwarded it to the Minister concerned. The Minister approved the transfer, which was then officially ordered by the Director of Ayurvedic, Haryana.

Following these findings, the revisionist was arrested, witnesses were examined and relevant documents were collected. A challan under Section 173 Cr.P.C. was filed in Court, leading to charges against the revisionist under Sections 420, 468 and 471 of the IPC.

The prosecution, in support of its case, examined as many as 8 witnesses including the complainant. The statement of accused/revisionist was recorded under Section 313 Cr.P.C., wherein all incriminating evidence was put to him. The defence, on the other hand, examined 2 witnesses.



After evaluating the evidence and material on record, the trial Court convicted the revisionist for offences under Sections 420, 468 and 471 of the IPC. The revisionist's prayer to be released on probation was rejected and the sentence, as detailed earlier, was imposed.

4. The learned counsel for the revisionist has argued that the courts below failed to consider the significant delay in filing the FIR, as the alleged transfer took place in the year 1999, but the FIR was registered only on 10.04.2003. Furthermore, the FIR did not provide any explanation for this inordinate delay. The learned counsel contended that the case of the prosecution was flawed due to this delayed and improperly handled investigation. It was asserted that the FIR was based on an inquiry into a mutual transfer application, allegedly forged by the revisionist. However, the investigation, including the report received from the FSL Madhuban with respect to the analysis of the signatures sent, did not conclusively link the revisionist to the forgery. Additionally, key witnesses including HC Maksood Khan denied having any personal knowledge of the revisionist, which further weakened the case of the prosecution. Learned counsel also emphasized that the courts below had erred in not appreciating that there was no direct evidence linking the revisionist to the alleged crime.



5. It was still further argued by the learned counsel for the revisionist that the testimonies of prosecution witnesses, PW-1 to PW-8 clearly indicated that the complainant, who was adversely affected by the transfer, had a motive to falsely implicate the revisionist. The defence evidence, including the deposition of DW-1 and DW-2, and documents DW-4 and DW-5 demonstrated the enmity between the revisionist and the complainant, which the trial Court entirely overlooked. Learned counsel also argued that it was a matter of record that two sons of the complainant had previously been convicted and sentenced to 10 years imprisonment, leading to a compromise mediated by respectables, yet this crucial evidence was not properly considered by both the courts below.

6. Learned counsel for the revisionist still further argued that the statement made by the revisionist under Section 313 Cr.P.C. was improperly handled, as all the incriminating circumstances were not put to him for explanation, resulting in prejudice against the revisionist. Learned counsel also contended that, given the circumstances, the revisionist should have been granted the benefit of probation under Section 360 of the Cr.P.C., especially since the revisionist had already lost his job due to the case. The learned counsel emphasized that this provision is mandatory, and the courts failed to provide any reasoning for not extending aforesaid benefit of probation. It was submitted that



the petitioner has already served more than three months of the two-year sentence and it is a matter of record that he has maintained good conduct throughout. Therefore, the learned counsel prayed that in the alternative, the revisionist should be granted the benefit of probation, considering his clean record and the hardships he has already faced.

7. Per contra, the learned State counsel, while opposing the prayer and submissions made by the counsel opposite, has argued that the prosecution had conclusively proven its case beyond a reasonable doubt by presenting substantial evidence. The involvement of the revisionist in the crime was clearly established through the deposition of the complainant, corroborative evidence and the report received from the FSL. The learned State counsel further submitted that in light of the concurrent findings recorded by the lower courts and the absence of any manifest illegality, the present revision petition is liable to be dismissed.

8. On a pointed query put to the learned State counsel qua the antecedents of the revisionist, he, on instructions, has not disputed that the revisionist had not been involved in any other criminal case and had led a law abiding life since his conviction.

9. I have heard learned counsel for the parties and perused the relevant material on record.

10. Upon meticulous examination of the entire material on record, including the evidence presented, and the arguments put forth by



both the parties, this Court finds that the case against the revisionist has been thoroughly scrutinized by the courts below. The findings of the courts below are consistent, well reasoned, and supported by the evidence on record.

11. The case revolves around forgery of a signature on a mutual transfer application that resulted in an unauthorized and fraudulent transfer of the complainant. The investigation initiated by the State Vigilance Bureau and the forensic analysis conducted by the FSL were crucial in uncovering the forgery. The FSL report conclusively established that the signatures on the disputed application were not that of the complainant but it matched with that of the revisionist.

12. The prosecution, thus, presented a coherent narrative supported by the testimonies of all the prosecution witnesses, documentary evidence, and expert opinions. The case of the prosecution was further bolstered by the corroborative evidence, such as the inquiry report by Dr.Madan Mohan, District Ayurvedic Officer, which also confirmed the forgery, and the procedural documentation submitted by the Investigating Officer.

13. The defence of the revisionist, with respect to the delay in lodging of the FIR and the possibility of enmity between him and the complainant, failed to dislodge the narrative of the prosecution. The mere existence of enmity does not by itself, negate the credibility of the



complainant or the veracity of the evidence presented by the prosecution. In the circumstances, this Court does not find any illegality much less perversity in the concurrent findings recorded by both the courts below.

14. However, while sentencing, a Court should consider not just the gravity of the offence but also the circumstances of the offender, including his conduct after conviction, the likelihood of reformation, and the impact of the sentence on his life and responsibilities. Hon'ble the Supreme Court, in '**Ved Parkash vs. State of Haryana**' 1981 (1) SCC 447, has emphasized the importance of a rehabilitative approach to sentencing, particularly in cases where the offender has shown signs of remorse and has a clean record post-conviction.

15. The revisionist, as highlighted by his learned counsel, and also not disputed by the learned State counsel, on instructions, has not been involved in any other criminal activities since his conviction and has led a law abiding life. The revisionist has already served over three months of the two-year sentence. Furthermore, the revisionist has lost his employment, as a result of this conviction, a significant punishment in itself that has had a profound impact on his livelihood and social standing.

16. In light of these considerations, while upholding the findings recorded by both the courts below regarding the guilt of the revisionist,



this Court is of the considered view that the case of the revisionist is suitable for a more lenient approach, given his conduct since the conviction. The principle that punishment should not only serve as a deterrent but also as a means for reformation of the offender, would be a key consideration in the instant case. Hence, while adopting a balanced approach and in the light of the principles laid down by the Hon'ble Supreme Court in **Ved Parkash's case (supra)**, coupled by the revisionist being a first time offender, this Court finds it appropriate to extend the benefit of probation to the revisionist.

17. Accordingly, the revisionist is ordered to be released on probation for a period of one year. He is directed to execute a bond in the sum of ₹10,000/- with one surety of the like amount to the satisfaction of CJM concerned, along with an undertaking that he shall maintain good conduct and peace during the probation period.

18. The petition stands disposed of in above terms.

(MANJARI NEHRU KAUL)
JUDGE

August 23, 2024

rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No