



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

206

CRR-643-2015 (O&M)
DECIDED ON:19.10.2024

DEVENDER PANWAR

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: - Ms. Anu Pal, Advocate,
for the petitioner.

Mr. Surender Singh Pannu, Addl. AG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The present revision petition has been preferred against the impugned judgment dated 09.12.2014 passed by Additional Sessions Judge, Karnal dismissing the appeal filed by the petitioner against the judgment of conviction dated 08.10.2013 and the order of sentence dated 10.10.2013 passed by Judicial Magistrate Ist Class, Karnal in FIR No.521 dated 19.10.2008 registered under Sections 419, 420, 467, 468 and 471 of the Indian Penal Code, 1860 (for short 'IPC') at Police Station Civil Line, Karnal.

2. The petitioner was sentenced as under:-

Under Section Sentence

120-B IPC	To undergo simple imprisonment for a period of two years and to pay a fine of Rs.500/-. In default of payment of fine, the convict shall be liable to undergo further simple imprisonment for a period of 15 days.
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- 419/120-B IPC To undergo simple imprisonment for a period of one year and to pay a fine of Rs.500/-. In default of payment of fine, the convict shall be liable to undergo further simple imprisonment for a period of 15 days.
- 420/120-B IPC To undergo simple imprisonment for a period of one year and to pay a fine of Rs.500/-. In default of payment of fine, the convict shall be liable to undergo further simple imprisonment for a period of 15 days.
- 467/120-B IPC To undergo simple imprisonment for a period of one year and to pay a fine of Rs.500/-. In default of payment of fine, the convict shall be liable to undergo further simple imprisonment for a period of 15 days.
- 468/120-B IPC To undergo simple imprisonment for a period of one year and to pay a fine of Rs.500/-. In default of payment of fine, the convict shall be liable to undergo further simple imprisonment for a period of 15 days.
- 471/120-B IPC To undergo simple imprisonment for a period of one year and to pay a fine of Rs.500/-. In default of payment of fine, the convict shall be liable to undergo further simple imprisonment for a period of 15 days.

2. Factual matrix of the case, are that the present FIR was registered on the application Ex.PW-2/A, moved by Sukhwant Singh, Centre Superintendent, Dayal Singh College, Karnal complainant on the allegations that a candidate named Sanjay Kumar, Roll No. 273596, Registration No. 06 PCD 2685 of BA Ist Year was appeared to take his examination at their centre on 19.10.2008 from 2 PM to 5 PM but on enquiry it was reported by Assistant Superintendent on duty that anybody else who was not telling his name but his photograph was affixed on roll number slip was sitting in place of afore-said Sanjay Kumar and thus request for taking necessary action.

3. On finding a *prima facie* case for the commission of offences under Sections 120-B IPC as well as 419, 420, 467, 468, 471 read with

Section 120-B of IPC, charges were framed accordingly, to which he pleaded not guilty and claimed trial and was ultimately convicted.

3. Learned counsel for the petitioner *inter alia* submits that petitioner was a student at the time of alleged occurrence and having bright future ahead and does not have any criminal antecedents, has been facing agony of protracted trial for the last more than 16 years. Learned counsel for the petitioner contends that she is not assailing the impugned judgment of conviction on merits and restricts her prayer to modification of the order of quantum of sentence to that of the release of the petitioner on probation of good conduct.

4. Learned counsel for the respondent-State submits that he has no objection to the restricted prayer qua the petitioner, so long as his conviction is upheld. Upon asking, he submits that the petitioner has undergone the actual custody for a period of 8 months and 20 days as per the custody certificate placed on record before this Court today

5. Heard learned counsel for the respective parties.

6. Section 3 and 4 of the Probation of Offenders Act empower the courts to release the offenders on probation of good conduct in the cases and circumstances mentioned therein. Similarly, Sections 360 and 361 of the Cr.P.C also empower the courts to release the offenders on probation of good conduct in the cases and circumstances mentioned therein. The Division Bench of the Apex Court in “**Som Dutt and others Vs. State of Himachal Pradesh**” (2022) 6 SCC 722, has held as under:-

“6....having regard to the fact there are no criminal antecedents against the appellants, the court is inclined to give them the benefit of releasing them on probation of good

conduct. In that view of the matter, while maintaining the conviction and sentence imposed on the appellants, it is directed that the appellants shall be released on probation of good conduct.....”

7. The Division Bench of the Hon’ble Supreme Court in “Lakhvir Singh Vs. State of Punjab” (2021) 2 SCC 763, has held as under:-

“6. We may notice that the Statement of Objects and Reasons of the said Act explains the rationale for the enactment and its amendments: to give the benefit of release of offenders on probation of good conduct instead of sentencing them to imprisonment. Thus, increasing emphasis on the reformation and rehabilitation of offenders as useful and self-reliant members of society without subjecting them to the deleterious effects of jail life is what is sought to be subserved.”

8. In view of the afore-said judicial enunciations, the judgment of conviction dated 08.10.2013 and order of sentence dated 10.10.2013 passed by Judicial Magistrate Ist Class, Karnal as well as the judgement dated 09.12.2014 passed by Additional Sessions Judge, Karnal, whereby, the conviction of the petitioner was affirmed and upheld. However, having regard for the fact that the petitioner has no criminal antecedents, this court is inclined to give him the benefit of probation of good conduct.

9. Consequently, while maintaining the conviction and sentence imposed on the petitioner, it is directed that the petitioner be released on probation for good conduct on furnishing a personal bond of Rs.20,000/- with a surety of the like amount, and on further furnishing an undertaking to keep the peace and good behaviour for a period of two years, to the satisfaction of the concerned Chief Judicial Magistrate.

10. The petitioner shall remain under the supervision of the concerned Probation Officer(s) during the aforesaid period. It is further directed that if the petitioner fails to comply with the said directions or commits breach of the undertaking given by him, he shall be called upon to undergo the remaining period of sentence imposed upon him in the present case.

11. With the aforesaid modification, the instant criminal revision petition is disposed off.

12. Pending criminal misc. application, if any also stands disposed off.

19.10.2024
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(SANDEEP MOUDGIL)
JUDGE

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |