



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

CRR-1828-2018

Date of Decision:04.11.2024

Mukesh Kumar

...Petitioner

Vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Brijesh Nandan, Advocate
for the petitioner (through VC).

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

N.S.Shekhawat J.

1. The petitioner has filed the present revision petition against the impugned judgment of conviction and order of sentence dated 06.10.2017, passed by the Court of Judicial Magistrate Ist Class, Amritsar, whereby the present petitioner was ordered to be convicted for the offence punishable under Sections 419 and 420 of IPC and was sentenced to undergo SI for a period of three years and to pay a fine of Rs. 1000/-, along with default stipulation and also against the judgment dated 19.04.2018 passed by the Court of Additional Sessions Judge, Amritsar, whereby the appeal filed by the petitioner was ordered to be dismissed.

2. The FIR in the present case was registered on the basis of the letter No. 710 dated 05.10.2010, which was received by the police from the Court of Vineet Kumar Narang, CJ(JD)-cum-JMIC, Amritsar. As per the application, on 05.10.2010, during the course of proceedings of rent case No.9/2009 titled as "Jaswinder Singh Vs.Rashpal Singh", one witness appeared as RW-2 on behalf



of the respondent. He tendered into evidence his duly sworn affidavit claiming himself to be Ashok Kumar son of Mohan Lal, resident of Mannawala, Tehsil and District Amritsar. That the moment said witness tendered his affidavit in the case as EX-RW2/A, applicant Jaswinder Singh who was present in the Court informed the Court that the said witness was not Ashok Kumar son of Mohan Lal. On inquiring in this regard, the person who appeared as RW2 stated before the Court in fact he was not Ashok Kumar son of Mohan Lal and his actual name was Mukesh Kumar son of Ashok Kumar, resident of Mannawala, Tehsil and District Amritsar. His statement in this regard was recorded. That Mukesh Kumar son of Ashok Kumar has impersonated himself as Ashok Kumar R/o Mannawala, Tehsil and District Amritsar and thereby he has cheated the Court and committed fraud. The accused was taken into custody and was handed over to PHG Daljit Singh and SPO Janak Raj of Police Station Civil Lines, Amritsar and on receiving this intimation along with accused, FIR was registered against the accused, investigation was conducted, statement of the witnesses under Section 161 Cr.P.C were recorded and the accused were arrested. After completion of the investigation, challan was presented in the Court against the accused.

3. After the presentation of the challan, the petitioner/accused was charge-sheeted for the offence punishable under Sections 419/420/120-B of IPC and he and his co-accused pleaded not guilty and claimed trial.

4. In support of the charge, the prosecution examined PW-1, ASI Naresh Kumar, who had investigated the case partly. The prosecution further examined Satinder Kaur as PW-2, who proved on record the statement of



Mukesh Kumar as Mark-A, statement of Jaswinder Singh as Mark-B and Memo as EX-PW2/A. Jaswinder Singh was examined as PW-3, who supported the case of the prosecution, as mentioned in the complaint. Similarly, Vineet Kumar Narang, Judicial Magistrate Ist Class, also appeared as PW-4 and supported the prosecution version. After recording the statement of these four witnesses, the evidence of the prosecution was closed.

5. After the closure of the evidence, the statement of accused was recorded under Section 313 Cr.P.C and all the incriminating evidence was put to the accused, to which he pleaded that he had been falsely involved in the present case and no defence evidence was led by the accused.

6. At the very outset, learned counsel for the petitioner has argued that he does not wish to challenge the impugned judgment of conviction, however, some leniency may be shown towards him, while awarding the sentence. Even though, the petitioner does not wish to challenge the conviction of merits, still this Court has examined the evidence led by the prosecution, in the light of the settled cannons of law.

7. In the present case, it is apparent that the FIR was registered on the strength of a letter Ex.PW2/A written by CJ(JD)-cum-JMIC, Amritsar on 05.10.2010, wherein he had mentioned that he was conducting the proceedings in a rent case and the petitioner appeared as a witness, by claiming himself to be Ashok Kumar son of Mohan Lal. Even an enquiry was conducted and the petitioner admitted that his actual name was Mukesh Kumar son of Ashok Kumar. His statement was recorded by the Trial Court and he had admitted his mistake. The statement of Vineet Kumar Narang, Judicial Magistrate Ist Class,



was recorded as PW-4. Apart from that, the statement of Vineet Kumar Narang has been supported by PW-1, SI Naresh Kumar, who had partly conducted the investigation and joined the petitioner in the investigation. Satinder Kaur, Reader of the Court appeared as PW-2 and had again supported the case of the prosecution. All these witnesses were cross-examined at length, however, their testimonies could not be shaken in any manner. Even otherwise, I have carefully gone through the findings recorded by both the Courts and finds no ground to deviate from the same. Both the Courts have discussed the evidence led by the prosecution in detail and the findings are well reasoned. In view of the above discussion, this Court has no hesitation to hold that the petitioner has been rightly convicted for the offence punishable under Sections 419 and 420 of IPC.

10. Now, advertent to the order of sentence, the petitioner was sentenced to undergo SI for for a period of three years and a fine of Rs. 1000/- under Sections 419 and 420 of IPC. In the present case, the petitioner is facing the prosecution since 05.10.2010 i.e. for the last more than 14 years. Even, at the time of commission of offence, he was aged about 22 years. Still further, out of total sentence of three years, the present petitioner has already undergone one year, seven months and 14 days of sentence. Consequently, no purpose will be served by sending the petitioner behind the bars again after such a long period.

11. In view of the above, the appeal is partly allowed and the impugned judgment of conviction is ordered to be upheld and 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 and the order of sentence is



modified to that extent. However, amount of fine will remain the same, which shall be deposited by the petitioner with the Trial Court within a period of two months, if not already deposited;failing which the present petition shall be deemed to be dismissed.

12. With these directions, the revision petition stands disposed off.
13. Pending application(s), if any, stand(s), disposed of, accordingly.

04.11.2024
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(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No