



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-3476-2018 (O&M)
Date of decision: 26.09.2024

Kuldeep Singh ...Petitioner

Versus

State of Punjab and Another ...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by: Mr. Nand Lal Sammi, Advocate and
Mr. Hitesh Kumar Sammi, Advocate
for the petitioner.

Mr. Inderjeet Singh, DAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

CRM-37067-2018

1. This is an application under Section 5 of the Limitation Act for condonation of delay of 34 days in filing the appeal.
2. Heard.
3. For the reasons as mentioned in the application, the same is allowed. Delay of 34 days in filing the appeal is condoned.

CRR-3476-2018

1. The present revision petition has been filed by petitioner/complainant Kuldeep Singh against the judgment dated 05.06.2018 passed by the Court of learned Sessions Judge, Rupnagar whereby the appeal filed by respondent No.2 Mahavir Singh was disposed of by the said Court.

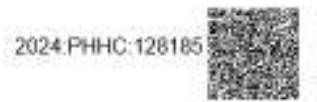


2. The brief facts of the case are that Dalbir Singh father of the present petitioner moved a complaint to SSP Rupnagar against respondent No.2 Mahavir Singh to the effect that respondent No.2 furnished false affidavit about his age, number of sons and area of his landed property to claim pension from Punjab Government. On the basis of the said false affidavit, respondent No.2 was granted pension by the State government and he is availing the same since September 2007. Matter was inquired into by Economic Offences Wing and complaint under Sections 177, 199, 200 and 417 IPC was filed against respondent No.2 by the prosecution, before the area Magistrate.

3. Notice of accusation was served to respondent No.2 under Sections 177, 199, 200 and 417 IPC to which he pleaded not guilty. During trial, one Surinder Singh was summoned as additional accused under Section 319 Cr.P.C. Thereafter, fresh notice of accusation was issued to Mahavir Singh and Surinder Singh, to which they pleaded not guilty.

4. In order to prove its case, prosecution examined PW-1 Dalbir Singh who reiterated the contents of complaint Ex.PW-1/A given by him to SSP Rupnagar. PW-2 Garja Singh, Retired Inspector recounted the entire part of investigation conducted by him. PW-3 Amrita Singh, CDPO, Rupnagar proved the pension case of Mahavir Singh. PW-4 Inspector Dalbir Singh proved the inquiry report Ex.PW-2/A. PW-5 Balwinder Singh, Junior Assistant in the office of Deputy Commissioner, Rupnagar produce the record of Misc. No.4 Nambardari of village Lohari decided on 03.08.2011.

5. Both the accused were examined under Section 313 Cr.P.C. They pleaded innocence and false implication. The accused examined



DW-1 Manjit Singh in their defence.

6. After hearing, counsel for both the parties, the learned trial Court convicted and sentenced both the accused vide judgment and order dated 28.02.2017 as under:-

Section	Sentence
199 IPC	Imprisonment for a period of one year each and fine of Rs.1000/- each and in default thereof to further undergo imprisonment for seven days each.
200 IPC	Imprisonment for a period of one year each and fine of Rs.1000/- each and in default thereof to further undergo imprisonment for seven days each.

Both the sentences were ordered to run concurrently.

7. Being aggrieved, Mahavir Singh and Surinder Singh preferred separate appeals. The same were disposed of by the learned Sessions Judge, Rupnagar vide judgment dated 05.06.2018 whereby judgment of conviction passed by the trial Court was upheld against both the accused and they were ordered to be released on probation with undertaking to keep peace and tranquility for a period of 6 months. With the said modification, both the appeals were dismissed by the Court of learned Sessions Judge, Rupnagar vide judgment dated 05.06.2018.

8. Aggrieved by the aforesaid judgment dated 05.06.2018, whereby respondent No.2 was given benefit of probation, petitioner being son of the complainant has filed the present revision petition.

9. I have heard the counsel for the petitioner and the State counsel.

10. The counsel for the petitioner submits that complainant Dalbir Singh (since deceased), being a law abiding citizen, lodged complaint with the police authorities to the effect that respondent No.2 Mahavir Singh got sanctioned pension in his name by furnishing false affidavit with regard to is age, number of family members and the landed property owned by him. The matter was inquired into and thereafter, State lodged complaint under



Sections 177, 199, 200 and 417 IPC against respondent No.2. The trial was faced by respondent No.2 and one Surinder Singh and both of them were convicted and sentenced to imprisonment as is detailed above. Both of them filed separate appeals against the judgment and order passed by the trial Court. Both the said appeals were decided by the Court of Sessions Judge, Rupnagar vide common judgment dated 05.06.2018 whereby conviction of both the accused was upheld but they were given concession of probation. It is further submitted that respondent No.2 was not entitled to get concession of probation as he committed fraud against the government by using fake affidavit to get pension. It is further submitted that the order of probation passed by the Court of learned Sessions Judge, requires to be set aside and order of sentence passed by the learned trial Court should be restored. Respondent No.2 be called to serve the sentence imposed by the trial Court.

11. The State counsel also adopted the same line of arguments.

12. I have considered the submissions made by counsel for the petitioner.

13. Admittedly, respondent No.2 and Surinder Singh were convicted and sentenced to imprisonment under Sections 199 and 200 IPC by the learned trial Court vide judgment and order dated 28.02.2017.

14. As per State counsel, respondent No.2 Mahavir Singh was more than 60 years of age when he was convicted and sentenced imprisonment by the trial Court. Admittedly, respondent No.2 was not a previous convict.

15. In the instant case, respondent No.2 Mahavir Singh was convicted and sentenced to imprisonment under Sections 199 and 200 IPC. The offences provided under Sections 199 and 200 IPC, shall be punished with imprisonment of either description for a term which may extend to 3 years and shall also be liable to fine, in a case the false evidence is given by the accused person in a non judicial proceedings, as is the case in the present petition.

16. Respondent No.2 was having statutory right for claiming the concession of beneficial provision of Section 360 Cr.P.C, he being not a previous convict. The Appellate Court was under a duty to consider the applicability of Section 360 Cr.P.C, as mandated under Section 361 Cr.P.C.



In view of express provision of Section 360 Cr.P.C and considering the facts and circumstances of the case, nature of the offence, the character of the accused and the time period which had lapsed since the date of incident, the Appellate Court rightly exercised its power and gave concession of probation to respondent No.2. Further, it appears that the period of probation of six months has already expired. There is nothing on the record to show that respondent No.2 has ever misused the said concession of probation.

17. In light of the above, the counsel for the petitioner has failed to point out any illegality or infirmity in the impugned judgment dated 05.06.2018 passed by the Court learned Sessions Judge, Rupnagar to the extent whereby respondent No.2 was directed to be released on probation. Thus, no ground for interference is made out in the criminal revision petitions filed by the petitioner/complainant.

18. Consequently, the revision petition is hereby dismissed being devoid of merits.

26.09.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:-	Yes/No