

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Crl. Revision No. 18/2019

Zain-ul-Abideen
Vs.
The State & another

Petitioner By:	Ch. Muhammad Junaid Akhtar, Advocate
State by:	Zohaib Hassan Gondal, State Counsel with Basharat Mehmood SI.
Date of Hearing:	05.03.2020

Ghulam Azam Qambrani, J: For the detailed reasons recorded in my even dated Judgment passed in Crl. Revision Petition No. 91/2018, this Crl. Revision is dismissed and the convictions and sentences awarded to the petitioner is upheld, except in offence U/s 385 P.P.C.

Ghulam Azam Qambrani
Judge

Announced in Open Court, on this 22nd, 2020.

Judge

S. Akhtar

JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Crl. Revision No. 91 of 2018

Muhammad Abid Butt
Vs.
The State

Petitioner By: Ms. Irum Siddiqui Advocate.
Ch. Muhammad Junaid Akhtar
Advocate for the petitioner in
Crl.Revision 18/2019

State by: Zohaib Hassan Gondal, State
Counsel with Basharat Mehmood SI.

Date of Hearing: 05.03.2020

Ghulam Azam Qambrani, J. :- Through this single judgment, I would like to decide Crl. Revision No.91/2018 as well as Crl.Revision No.18 of 2019, directed against judgment, dated 27.10.2018, whereby on Criminal Appeals filed by Muhammad Abid and Zain-ul-Abideen against judgment dated, 15.12.2017, passed by the learned Judicial Magistrate Section 30 (East) Islamabad, convictions and sentences awarded to the appellants stood upheld to the extent of offences under sections 170, 385, 419, 420, 468, 471, 473 & 34 PPC, whereas the appellants were acquitted of the charge under section 171 P.P.C, hence the instant criminal revisions.

2. Briefly stated facts of the prosecution case are that on 23.01.2017, F.I.R No.12/2017 was registered on the written report of complainant/ petitioner Zain-ul-Abideen at Police Station Shahzad Town, Islamabad, with the allegations that he met with co-accused Muhammad Abid Butt in November, 2015, who impersonated

himself as the Director in the Ministry of Interior and stated that he can recruit him in the said ministry. It is further submitted that the complainant/ petitioner allegedly paid an amount of Rs.3,50,000/- to the co-accused/ Muhammad Abid Butt for his appointment as Data Entry Operator, thereafter, the complainant/ petitioner got met/introduced Shahbaz, Shoaib, Bilal, Waqar, Mohsin, Wajid, Hamid, Mansoor, Kashif and some other persons to the co-accused Muhammad Abid Butt for their recruitments in the said ministry for which they also paid different amounts; appointment letters and other relevant documents were issued to them and they all were appointed on different posts in the office of the said co-accused with the name of Crisis Management Cell 042, situated at Chatha Bakhtawar, Islamabad. It has also been alleged that the co-accused Abid Butt prepared fake number plates of vehicles, stamps and other documents in order to run the business of the said office. On 12.01.2017, all the persons came to know that the said documents were forged and the co-accused Muhammad Abid Butt cheated and deprived them of their handsome amounts. Hence F.I.R No.12, dated 23.01.2017, under sections 385, 473, 419, 420, 468, 471, 170, 171 & 34 PPC was registered.

3. Thereafter, investigation was carried out, some of the affectees appeared before the police, recorded their statements, placed on record fake appointment letters, on the basis whereof the complainant/petitioner Zain-ul-Abideen was also found partner of the co-accused, therefore, he was also arrested in the case. During investigation, forged stamps and some other articles were recovered from his possession and challan was submitted against both the petitioners.

4. The learned trial Court framed charge against the petitioners on 08.04.2017, to which they pleaded not guilty and claimed trial. In order to prove the guilt against the petitioners, prosecution examined as many as eighteen (18) witnesses. After closure of the prosecution evidence, the petitioners were examined under Section 342 Cr.P.C., wherein they categorically denied the allegations and claimed their innocence. However, they neither deposed on oath as per Section 340 (2) Cr.P.C. nor produced any defence evidence. The learned Judicial Magistrate vide judgment, dated 15.12.2017 convicted the petitioners and sentenced them as follows.-

Under Section 385 PPC for the period of two years rigorous and fine of Rs 10,000/- in case of default of fine, they shall further undergo for three months simple imprisonment.

Under Section 473 PPC for the period of seven years rigorous imprisonment and fine of Rs.20,000/- in case of default of fine, they shall further undergo period for 06 months simple imprisonment.

Under Section 419 PPC for the period of three years rigorous imprisonment and fine of Rs.10,000/- in case of default of fine, they shall further undergo period for three months simple imprisonment.

Under Section 420 PPC for the period of seven years rigorous imprisonment and fine of Rs.20,000/- in case of default of fine, they shall further undergo period for 06 months simple imprisonment.

Under Section 468 PPC for the period of seven years rigorous imprisonment and fine of Rs.20,000/- in case of default of fine, they shall further undergo period for 06 months simple imprisonment.

Under Section 471 PPC for the period of three years rigorous imprisonment and fine of Rs.10,000/- in case of default of fine, they shall further undergo period for 06 months simple imprisonment.

Under Section 170 PPC for the period of two years rigorous imprisonment and fine of Rs.5000/- in case of default of fine, they shall further undergo period for one half month simple imprisonment.

Under Section 171 for the period of three months rigorous imprisonment.

Benefit of **Section 382 (B) Cr.P.C.** was also extended to the accused persons and the sentences were ordered to be run concurrently.

5. The petitioners being aggrieved from the convictions and sentence awarded to them preferred appeals before the learned Additional Sessions Judge (East) Islamabad, which were dismissed upholding the conviction and sentence awarded to the petitioners, whereas the appellants were acquitted of the charge under section 171 P.P.C, hence the instant Criminal Revisions, arising out of common impugned judgment.

6. Learned counsel for the petitioner (Muhammad Abid Butt) contended that she does not want to press the petition and prayed for reduction in the quantum of sentence awarded to the petitioner.

7. Learned counsel for the petitioner (Zain-ul-Abideen) contended that; infact the petitioner himself is one of the affectees; the petitioner is innocent and was also cheated by the accused Muhammad Abid Butt; when he came to know the real facts, he lodged F.I.R against Muhammad Abid Butt; there is no evidence on record that he forged any document and used it as genuine; there is no evidence that he dishonestly induced any person; there is no evidence of forgery against him; the alleged recovered stamp is not connected with the offence of forgery as defined under section 467 PPC; the petitioner did not cheat anyone by impersonating himself;

the petitioner is also a victim of the co-accused namely, Muhammad Abid Butt; offence under section 385 P.P.C is also not made out against the petitioner; the alleged recoveries have been foisted in complete derogation of the mandatory requirements of Section 103 Cr.P.C; the learned Courts below have misread and non-read the evidence brought on record; the alleged offences are not attracted against him. Hence, prayed that the sentences awarded to him be set aside and he be acquitted from the charge.

8. Conversely, learned State Counsel opposed the argument raised by the learned counsels for the petitioners and while supporting the impugned judgment contended that; the petitioners are involved in the commission of offences; they are nominated in the F.I.R with specific roles; the petitioner (Zain-ul-Abideen) had received substantial amount directly from Bilal, Saqib Jameel, Manzoor, Mansoor, Muhammad Shahbaz, Muhammad Tahir and Muhammad Zeeshan for their appointments/jobs and issued fake appointment letters; stamp was also recovered from the house of the accused Zain-ul-Abideen; the petitioner Muhammad Abid Butt had also received an amount of Rs.2,00,000/- from Kashif, Rs.3,00,000/- Mohsin, Rs.2,00,000/- Wajid, Rs.1,50,000/- Hussain, Rs.3,00,000/- Haris Khan; Mehran Car, forged list of appointees, green number plates, forged departmental cards, forged files, motorcycle with green number plate were also recovered from him. The learned State Counsel has, therefore, urged for dismissal of the instant criminal revisions.

9. I have heard the arguments of the learned counsels for the parties and have perused the available record with their able assistance.

10. The criminal case was registered on the complaint of one Zain ul Abideen alleging that Muhammad Abid Butt introduced himself as Director in the Ministry of Interior, thus deceived and deprived him and others of substantial amounts in order to manage Government jobs for them in the Ministry of Interior. It is in the evidence that in order to deceive the complainant and others, fake appointment letters for different posts were issued by Muhammad Abid Butt in the office of Crisis Management Cell 042, Chatha Bakhtawar, Islamabad. Record further reveals that in order to cover the fraud, Muhammad Abid Butt prepared fake number plates of the vehicles, stamps and other documents. When the affectees came to know that all the documents were forged, fictitious and the petitioner Muhammad Abid Butt has defrauded them, they approached the local police, hence F.I.R No.12 of 2017. During the course of investigation, the complainant/petitioner namely, Zain-ul-Abideen was also found involved in the commission of offences, therefore, Challan/ report was submitted against both the petitioners before the learned trial Court.

11. The prosecution produced as many as eighteen (18) witnesses to prove guilt of the accused/convicts and despite lengthy cross-examination, their credibility could not be shattered. Incriminating material collected during investigations was produced in evidence and duly exhibited during trial. The accused/convicts deceived the complainant and others on the pretext of managing Government jobs for them. In order to cover this criminal act they prepared forged seals, appointment letters, service cards, other documents and number plates for vehicles. All this was done in order to deprive the innocent person from their substantial amounts

as consideration for appointing them in a Government Department by impersonating themselves as employees/ representatives of the Government Department.

12. The learned trial Court after conclusion of trial convicted the accused under sections 385, 473, 419, 420, 468, 471, 170 and 171 of PPC. However, the benefit under section 382(B) Cr.P.C was extended. Feeling aggrieved of the judgment, the accused/convicts preferred appeals. The learned appellate Court upheld the judgment of the learned trial Court and rightly acquitted the accused/convicts under section 171 of PPC as the ingredients of this provision were not proved by bringing cogent evidence during trial against them.

13. There is also no evidence on record that the petitioners put any person in fear of any injury in order to commit extortion or put in fear to deliver to any person any property/ amount. In fact the allegations according to prosecution case is that the affectees delivered cash to the petitioners in order to secure job and thus they were cheated by personation and were dishonestly induced to deliver, hence the ingredients of Section 385 P.P.C are not attracted against the accused persons, therefore, the conviction and sentence awarded by the learned trial Court under this section is not maintainable, and the same is hereby set-aside.

14. In the light of the facts and circumstances of this case, this Court is of the view that sufficient material is available on record to connect the petitioners with the commission of remaining alleged offences. Both the learned Courts below have properly appreciated the evidence and have passed well reasoned judgments. The evidence unambiguously supports the case of the prosecution. The

prosecution had established its case beyond reasonable doubt and the learned trial Court after properly appreciating the evidence delivered a well reasoned judgment.

15. The learned counsels for the petitioners have failed to point out any illegality, irregularity, misreading, non-reading or any infirmity or defect in the impugned judgment and order passed by the learned Courts below, which may call for acquittal of the accused.

16. In view of the above, I do not find any substance in these petitions and with the above modification, these petitions are accordingly ***dismissed***.

~~Ghulam Azam Qambrani~~
Judge

Announced in Open Court, on this 22nd, 2020.

~~Judge~~

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