

Delhi High Court

Gyan Chand Sharma vs State on 11 April, 2002

Equivalent citations: 2002 IVAD Delhi 982, 98 (2002) DLT 194, 2002 (62) DRJ 782

Author: S Agarwal

Bench: S Agarwal

JUDGMENT S.K. Agarwal, J.

1. This revision petition under Section 397/401 Cr.P.C. is directed against the order dated 18.2.2002, passed by the court of Sh. S.N. Gupta, ASJ, Delhi, while setting aside the conviction of the petitioner under Sections 420 read with 511 IPC and reducing the sentence awarded to petitioner under Section 471, from one year to six months RI and fine of Rs. 5,000/- in default S.I. for three months, in case FIR No. 54/90, under Sections 420/468/471 IPC, P.S. Mukherjee Nagar, Delhi.

2. Facts in brief are: that on or about 23.10.89 petitioner produced a domicile certificate bearing No. 1413 dated 5.8.89 purported to have been issued by Sub-divisional Officer, Haldwani (Civil); knowing the same to be a forged document for seeking some exemption in height for selection as sub-inspector in Delhi Police; and claimed himself to be a person belonging to hill area. Before the petitioner could be appointed, on a suspicion being raised, certificate was got verified and the same was found to be forged. Case was registered and after investigation challan was filed. The trial court, vide judgment and order dated 1.11.2002 held the petitioner guilty under Sections 471 and 420 read with 511 IPC and sentenced him to undergo RI for one year with fine of Rs. 5,000/- in default, S.I. for three months. In the appeal filed by the petitioner against this order was dismissed on 18.2.2002. The sentence awarded was reduced from one year R.I. to six month R.I. for the offence under Section 471 IPC with fine of Rs. 5,000/-. The conviction for offence under Sections 420/511 IPC was set-aside.

3. Learned counsel for petitioner did not press the revision on merits and prayed for a lenient view on sentence. He submits that petitioner suffered pain and agony of trial for about 12 years; he did not derive any advantage on the basis of forged domicile certificate purported to have been issued by Sub-divisional Officer, Haldwani (Civil); he is above 35 year old having three minor school going children; and he has already undergone sentence of about one and half month. Therefore, he prays that he be released on probation under Probation of Offenders Act, 1958 or the sentence be reduced. Learned counsel for State submits that quantum of sentence is a matter of discretion by the court.

4. The object of the Probation of Offenders Act, 1958 is to prevent the youthful offenders from association with hardened criminals of mature age. The object is in consonance with the present trend in the field of penology. It affords an opportunity to the convict having regard to the circumstances of the case, the nature of the offence and the character and antecedents of the offender to reform himself.

5. In this case, report of the Probation Officer was also called. It confirms that petitioner has three minor children, i.e., two daughters aged about 13 years, 10 years studying in 7th and 5th standard, and one son aged about 3 years. The economic condition of the petitioner is poor; father of petitioner is retired army personnel getting Rs. 3000/- as pension. It is stated that the petitioner

was running "Kirana" shop.

6. Taking into consideration the nature of the offence and report of Probation Officer and the fact that petitioner has suffered pain and agony of trial for about 12 years, a case for release of the petitioner on probation is made out.

7. In view of above, revision petition is partly allowed. Petitioner is ordered to be released on his entering into a bond in the sum of Rs. 10,000/- with one local surety in the like amount to keep peace and be of good behavior, for two years, and to appear and receive sentence whenever called upon during the said period.

8. With the above modification, revision petition stands disposed of.

9. dusty.