

**(2008) 02 P&H CK 0343**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Criminal Appeal Revision No. 398 of 1995 (O and M)

Anil Kumar

APPELLANT

Vs

State of Haryana

RESPONDENT

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**Date of Decision:** Feb. 22, 2008

**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 420, 468, 471

**Hon'ble Judges:** Kanwaljit Singh Ahluwalia, J

**Bench:** Single Bench

**Advocate:** R.S. Chahar, for the Appellant; Manmohan Sikka, Assistant Advocate General, Haryana For the State, for the Respondent

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**Judgement**

Kanwaljit Singh Ahluwalia, J.

Anil Kumar son of Raghbir Singh was prosecuted in case FIR No. 215 dated 15.12.1987 at Police Station City, Dadri under Sections 420/468/471 IPC. It is not disputed that Anil Kumar, on the strength of certificate of matriculation, got employment in Army. It was later learnt that the matriculation certificate relied upon was forged. Two courts below have returned clinching findings regarding the involvement of petitioner in the offences for which he has been convicted. Petitioner was found guilty of offences under Sections 420/468/471 IPC. He was awarded three years rigorous imprisonment and a fine of Rs. 500/- u/s 420 IPC and in default, to undergo rigorous imprisonment for one month. Petitioner was also sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs. 500/- u/s 468 IPC and in default, to undergo rigorous Criminal Revision No. 398 of 1995 (O&M) 2 imprisonment for one month. He was also convicted u/s 471 and was sentenced for one year rigorous imprisonment and a fine of Rs. 500/- and in default, to undergo rigorous imprisonment for one month.

2. Aggrieved against the same, he had filed an appeal and the same was dismissed by the Court of Additional Sessions Judge, Bhiwani. In para 7, the lower appellate Court has observed as under:

"After recruitment of the accused/ appellant in the military matriculation certificate and mark-sheet produced Exts.PB and PC were got verified by the military authorities from the concerned Board of High School Examination at Allahabad, which vide letter Ex.PF found them fictitious. It is to be seen whether said certificates are genuine or bogus. This controversy stands clinched in view of the certificate Ex.PD and statement made by Jagdish Mitra Joshi PW3 who deposed that on 11.1.1988, he was posted as Assistant Secretary of the said Board. Under roll No. 0711440 in 1984, on Gowri Shankar s/o Tokhan Lal appeared in the matriculation examination and not Anil s/o Raghbir. He further stated that according to the record of their office, the certificates Exts.PB and PC of Anil Kumar were found bogus (report bear his signatures). In the cross-examination as well he made it clear that the said certificates were bogus and not issued by the Board. So there is no force in the contention raised on behalf of the learned defence counsel about presence of signature over said two documents. The signatures of PW3 Jagdish Mitra Joshi are over the report about their being fictitious, so this contention is mis-conceived and without any basis. Vide letter Ex.PD also, the concerned Board opined said certificate being fictitious and not issued by their Board. So in these circumstances on thorough perusal of the judgment/ order passed by the learned trial Court on 1.10.1993,"

Mr. R.S. Chahar appearing for the petitioner has been unable to reply to the observation of this Court that the petitioner was beneficiary of the service in the Army and he knew that the certificate which he has used for getting employment was forged, bogus and fictitious. At this stage, Mr. Chahar has been candid enough to submit that he will not be Criminal Revision No. 398 of 1995 (O&M) 3 able to assail the findings of the two courts below as after appreciation of the evidence, both the Courts are unanimous on the facts of the case that the petitioner has forged the certificate. Therefore, in alternate, Mr. Chahar has submitted that in the present case, FIR was registered in year 1987. Petitioner has already undergone a protracted trial. Mr. Chahar has further submitted that petitioner has lost Army service. He was dismissed from the Army and he has also undergone one month after dismissal of the appeal. It has been contended that in the last 21 years, petitioner has been in the corridors of the Court and he is sole bread earner of the family.

3. Taking into consideration protracted trial, family condition of the petitioner and the nature of the offence, ends of justice will be met in case the sentence awarded by the courts below is reduced from three years to one year rigorous imprisonment. However sentence of fine is enhanced from Rs. 500/- to Rs. 5000/- u/s 420 IPC only. Sentence of fine for other offences, i.e. u/s 468 and 471 shall remain same.

4. With these observations, present revision petition is disposed off.