

(2014) 12 TP CK 0027
In the Tripura High Court
Case No : Crl.Rev.P. No. 81 of 2006
Arun Mitra VsThe State of Tripura

Date of Decision : 18-12-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 397, 401
Penal Code, 1860 (IPC) — Section 468, 471
Probation of Offenders Act, 1958 — Section 4

Citation : (2014) 12 TP CK 0027

Hon'ble Judges : S.C. Das, J

Bench : Single Bench

Advocate : M. Choudhury, Legal Aid Counsel, Advocate for the Appellant; R.C. Debnath, Addl. P.P, Advocate for the Respondent

Judgement

S.C. Das, J.—This revisional application under Section 397 read with Section 401 of Cr.P.C. is directed against the judgment and order of conviction and sentence dated 16.06.2006 passed by learned Sessions Judge, South Tripura, Udaipur in Criminal Appeal No. 12(1)/2006, whereunder he has affirmed the judgment and order of conviction and sentence dated 08.03.2006 passed by the learned SDJM, Sabroom in Case No. GR 60 of 2005.

2. Heard learned legal aid counsel, Mr. M. Choudhury for the petitioner and learned Additional P.P., Mr. R.C. Debnath for the State-respondent.

3. Prosecution case is that the accused petitioner, Arun Mitra with a school certificate dated 20.01.2003 (marked Exbt. M.O.1) issued by Manu Tahashil High School appeared before PW1, the Inspector of Schools, on 20.07.2005 for counter signature and on perusal of the same PW1, the Inspector of Schools, Sri Ranjit Majumder, the informant, got suspicious about genuinity of the certificate and he asked Arun Mitra to produce the mark sheet/progress report of the school. Thereafter on 22.07.2005 Arun Mitra again came to his office and produced a mark sheet/progress report, issued by the said School, i.e., Manu Tahashil High School and on perusal of that mark sheet/progress report his suspicion further deepened regarding genuinity of the mark sheet and did not

countersign the certificates and told Arun Majumder that he will verify the genuinity of the certificate. After two days he went to Manu Tahashil High School and on verification he found that a transfer certificate was issued to Arun Mitra wherein it has been mentioned that he did not pass Class-VIII and that the school progress report was also issued and on verification of the school record it was found that Arun Mitra did not pass Class-VIII. After 2/3 days Arun Mitra again came to his Office and on query by the informant, i.e. PW1, Arun Mitra admitted that he collected the progress report (Exbt.-M.O.2) from one Nani Gopal Debnath of Sindukpathar and that he committed the mistake. Thereafter Arun Mitra left the Office leaving the school certificate(Exbt.-M.O.1) as well as the progress report(Exbt.-M.O.2) and PW1, the Inspector of Schools, lodged the FIR.

4. Police investigated the case and submitted charge sheet against Arun Mitra and Nani Gopal Debnath. In course of trial charges were framed against Arun Mitra and Nani Gopal Debnath for commission of offence punishable under Section 468 and 471 of IPC and after trial learned SDJM found accused Arun Mitra guilty of both the charges and sentenced him to suffer R.I. for three years for each of the offences and directed that the sentences shall run concurrently.

5. Aggrieved, the accused petitioner preferred criminal appeal in the Court of learned Sessions Judge vide Criminal Appeal No. 12(1) of 2006 and by Judgment dated 16.06.2006 the appeal was dismissed and the sentence was upheld.

6. Learned legal aid counsel, Ms. M. Choudhury made a very fair submission that the fake school certificate and the progress report, which the accused-petitioner alleged to have placed before the PW1, has been marked as Exbts.-M.O.1 and M.O.2 and the relevant school certificate register as well as the merit book of the school has been seized by I/O and those are marked as exhibits at the time of trial which show that the school certificate was tempered, which was issued from the school and the progress report was a fake progress report. She however, prayed that the accused petitioner was below 21 years at the time of the alleged commission of offence and that if he suffers the sentence his entire life will be ruined and, therefore, prayed for taking a lenient view and at least to give the benefit of Section 4 of the Probation of Offenders Act.

7. Learned Additional P.P., on the other hand, has submitted that the accused petitioner committed a grave offence. He has obtained a school certificate wherein it was written that he had not passed Class-VIII examination, but he has erased out the word "not" and thereby made the certificate to show as if he had passed Class-VIII. The progress report was a fake progress report obtained by him and the merit register of the school shows that he did not pass Class-VIII and under such circumstances he do not deserve any lenient view.

8. I have meticulously gone through the impugned judgments passed by the learned Sessions Judge and the learned SDJM. I have also gone through the material evidence and the documents placed on record. It is amply proved that

the accused tempered the school certificate which was issued in his name with the writing that he "had not" passed Class-VIII examination, but he has erased out the word "not" from the certificate to show him as if the certificate has been issued that he has passed the Class-VIII examination. The progress report/mark sheet(Exbt.-M.O.2) was a fake mark sheet obtained through illegal means and so, he does not deserve any leniency in respect of punishment.

9. I think the offence is very grave. Since he intentionally and willfully obtained a false progress report/mark sheet knowing fully well that he did not pass the exam and again he has tempered the school certificate to show himself passed Class-VII exam, I think he should not get any lenient consideration. Anyway, considering the period already passed in the mean time and considering all aspects, the nature of the convict and his age etc., the period of sentence is reduced to R.I. for 2(two) years in lieu of R.I. for 3(three) years for both counts of the offences. Accordingly, it is hereby ordered that accused petitioner, Arun Mitra shall suffer R.I. for 2(two) years for both the offences committed by him.

10. With this reduction of sentence the criminal revision petition stands disposed of.

11. Before parting I must not miss to give thanks to the learned legal aid counsel for her effectively assisting the Court in disposing the revisional application.

12. Send back the lower court record along with a copy of this judgment.

13. A copy of this judgment be furnished to learned legal aid counsel, Ms. M. Choudhury.