

CNR No. HPHA02-010421-2022, Police Challan No.19-I-2022 CIS Regd No. 153
of 2022 State of H.P. Vs Guman Singh

**IN THE COURT OF TINA MALHOTRA, JUDICIAL MAGIS-
TRATE FIRST CLASS, COURT NO. III, HAMIRPUR, H.P.**

FORM-A

CNR No.	HPHA02-010421-2022
P.Ch No.	19-I-2022 (u/s 471 of IPC in case FIR No. 80 of 2022, dated 30.03.2022 of P.S Hamirpur, District Hamirpur, (H.P.)
Registration No.	153-2022
RBT No.	--Nil--
Complainant	Brig. Madan Sheel Sharma
Represented by	Assistant Public Prosecutor.
Accused	Ex. Hav. Guman Singh son of Sh. Mathu Ram, resident of Village Bajowa, P.O. Jais, Tehsil Theog, Distt. Shimla, H.P.
Represented by	Sh. R.S Chandel, Advocate.

FORM-B

Date of offence	02.02.2002.
Date of filing the Police challan	08.06.2022.
Date of framing of Charge	27.01.2024.
Date of commencement of evidence	22.05.2024
Date of which judgment is reserved	18.07.2026
Date of the judgment	25.07.2026

J U D G M E N T:

1. The criminal law has been set in motion for the alleged commission of offences punishable under Section 471 of Indian Penal Code, 1860 (for brevity, hereinafter referred to as "IPC" only), in present case FIR No. 80 of 2022, dated 30.03.2022 of P.S Hamirpur, District Hamirpur, (H.P.)

2. Brief facts of the prosecution story as emerging from the police challan are that the accused tampered with the service book record by overwriting and changing his height from 165 cms to 169 cms so that the forged document can be used as genuine in police department against ex-serviceman quota. Thereafter, the accused fraudulently and dishonestly used the forged document as genuine in order to get recruited in the police department against Ex-serviceman quota. The complainant Brig. Madansheel Sharma filed a complaint before Superintendent of Police, Hamirpur, H.P. On the basis of the complaint, present case FIR was registered against accused and the endorsement is made. Thereafter, prosecution moved an application to obtain sample handwriting which was given by accused before Ld. JMFC Court No.2 Hamirpur, H.P. The parcel is sealed with 6 seals of seal impression N, sent to RFSL and the result from RFSL reveals that overwriting was observed. During investigation, discharge book of the accused was procured by the police, which was taken into possession and police moved an application seeking employment record of accused and documents were forwarded to the police.

3. The Investigating Officer carried the investigation and got the statements of the witnesses recorded under Section 161 of Cr.P.C. After concluding other formalities of investigation, formal *challan* under Section 471 of IPC was presented in the Court.

4. On receipt of the *challan*, the accused was summoned and on his appearance before the Court, the copies of the *challan* and other relevant documents were supplied to him as per the mandate of Section 207 of the Cr.P.C. On finding a prima facie case against the accused, charge under the afore-said section was put to the accused, to which he did not plead guilty and claimed trial.

5. Thereafter, the prosecution opened its evidence and in support thereof, it examined as many as twelve witnesses. After closure of prosecution evidence, incriminating evidence, adduced by the prosecution was put to the accused by recording his statement under Section 313 of the Cr.P.C (now 351 of BNSS), in which he pleaded innocence and false implication and denied the prosecution case in toto. He, however, did not express his intention to lead evidence in his defence.

6. On the basis of the record, this Court is of the considered view that following points arise for determination in the present case:

Point No.1	: Whether the prosecution has succeeded in proving its case beyond reasonable doubt that accused tampered with his service book record by over writing and changing his height from 165 cms to 169 cms and fraudulently and dishonestly used the forged documents as genuine in order to get recruited in the police department against Ex-servicemen quota, thereby committing an offence punishable under section 471 of IPC?
Point No. 2	: Final Order.

7. This Court has heard the arguments as advanced by the Ld. APP for the State and the Ld. Defence Counsel and has also perused the record with minute care. For the reasons to be recorded hereinafter, while discussing the points for determi-

nation, the findings of this Court on the aforesaid points are as under:

Point No.1	: In negative
Final Order	: Accused Guman Singh is acquitted of the charge under Section 471 of IPC as per the operative part of this judgment.

APPRECIATION OF EVIDENCE & REASONS FOR FINDINGS:
POINT NO. 1

8. The accused is indicted for the alleged commission of offence under section 471 of the Indian Penal Code. Brigadier Madansheel examined as PW-1 served as Director Sainik Welfare who filed an application Ext. P-1/PW-1 before the police which bears his signature at red circle A. A vacancy was created in the police department against Ex-serviceman quota and an advertisement was taken out by PW-1 inviting applications to be sent through Special employment cell. An application was received from the accused, which on scrutiny, had an overwriting of height at 169 cms. PW-1 then wrote to Electronic Mechanical Engineer Department so as to confirm the height which was 165 cms. PW-8 is Sandeep Kumar o/o EME Records who produced the necessary records as per which the height of the accused is 165 cms. He identifies the signature of HC Pradhan in red circle A of Ext. P-4/PW-2. The application of the accused was referred to PW-1 through employment exchange.

9. The record of the accused i.e. attested copies were produced before the police by PW-2 who served as a clerk in ex-serviceman cell. The documents include matriculation Ext. P-1/PW-2, 10+1 Ext. P-2/PW-2, newspaper Ext. P-3/PW-2, EME Record Ext. P-4/PW-2, medical report of accused Ext. P-5/PW-

2, matric certificate Ext. P-6/PW-2, bonafide certificate Ext. P-7/PW-2 and discharge book Ext. P-8/PW-2.

10. PW-3 Jai Singh has denied that any documents were taken into possession in his presence although he admits his signature on memo Ext. P-1/PW-3.

11. PW-7 HC Nazir Ahmad has testified that on 20.04.2022, ASI Prakash Chand had handed over the possession of a parcel sealed with 6 deals containing discharge book, sample handwriting of accused on 15 pages, sample seal, which was entered in register no. 19 at serial no. 149/1211 Ext P-2/PW-7. PW-9 HHC Anil Kumar no. 110 was deputed as CCTNS operator who entered *rapat* for deposit of the handwriting sample along with discharge book in malkhana vide *rapat* Ext. P-1/PW-9. The certificate under section 65-B is Ext. P-2/PW-8. PW-7 has further testified that on 26.04.2022, as per RC No. 202/22 Ext. P-1/PW-7, the parcel was sent through C. Baldev No. 265 (PW-12) to RFSL, which is affirmed by PW-12. The result from RFSL Ext. P-3/PW-7 along with case property was received back through C. Sudhir no. 166 in packet Ext. P-4/PW-7. The same is affirmed by witness PW-10 C. Sudhir no. 166 PL Hamirpur. The same was then handed over to the IO as per entry in serial no. 149/1211. In his cross examination, he deposed that the signature of the two aforesaid officials are absent from the column of signature in the register.

12. It is undisputed that, in terms of the advertisement, all requisite documents were to be submitted to the Sainik Welfare Board before the cut-off date. The accused duly complied with this requirement, and his original documents remained in the custody of the Board thereafter. PW-11 has admitted that no complaint whatsoever was lodged by the Board during the period from 28.02.2022 to 21.03.2022. The Investigating Officer (PW-11) has further admitted that, at no stage of the selection

process, did the accused represent or claim that his height was 169 cm. Although PW-11 denied that document Ext. P-5/PW-2 was required by the department, the evidence on record belies this assertion. PW-2 categorically deposed that Ext. P-5/PW-2 was handed over to the police by the Ex-Servicemen Cell itself. The document, dated 02.03.2022, was issued by the Medical Officer, Civil Hospital, Baijnath, Kangra, certifying the accused's height as 5 feet 6 inches. Since the accused had already submitted all the documents required under the advertisement before the cut-off date of 28.02.2022, the very fact that Ext. P-5/PW-2 was found in the custody of the Ex-Servicemen Cell reasonably leads to the inference that it had been called for by the Cell itself after the initial submission of documents. This circumstance is inconsistent with the prosecution's case that the accused had independently sought to misrepresent his height.

13. Surprisingly, in the same breath, PW-11 admitted that when the accused produced the aforesaid document, he was directed to obtain verification of his height from IGMCH, Shimla, pursuant to communication Ext. DX-1. Ext. DX-1 bears an endorsement on its reverse by the Senior Medical Superintendent, recording the height of the accused as 5 feet 6 inches. An investigating officer is expected to conduct a fair and impartial investigation by placing all relevant material before the Court, whether it supports or undermines the prosecution case. In the present case, despite Ext. DX-1 having originated from the complainant itself and constituting a material document, it was not produced along with the challan. The non-production of such a vital document assumes significance, particularly when it corroborates the accused's consistent stand regarding his height. Further, Ext. P-3/PW-7, the report of the RFSL, merely indicates the presence of overwriting in the questioned document. Significantly, however, the report does not attribute

the alleged overwriting to the accused or identify its authorship. In the absence of any opinion connecting the accused with the alteration, the mere existence of overwriting cannot, by itself, establish that the accused was responsible for the same. In light of the foregoing discussion of evidence, it is pertinent to rely upon the case of **VANDANA v. STATE OF MAHARASHTRA 2025 INSC 1098**, where following was observed:

8. In the instant case, the mark-sheet and the revaluation notification went through a chain of custody. Firstly, from appellant to admission clerk and after the admission clerk had verified and received the alleged documents then the custody was routed to the principal of the college. The prosecution had failed to prove, by any reliable evidence, that the alleged tampering was effected by Appellant herself or while the documents were in the exclusive custody and control of the appellant this tampering had occurred. On the contrary, the material evidence would disclose that the documents passed through institutional hands for scrutiny, endorsement and forwarding and at certain points of time it was not in the custody of appellant at all. In such circumstances, the passing of the alleged document through the hands of several person before it was detected as forged renders unsafe to arrive at a conclusion that appellant had authored the tampering or possessed the contemporaneous knowledge of such tampering. It is apt to mention that it is well-established principle of law that suspicion, howsoever grave, cannot replace the standard of legal proof.

14. The accused does not dispute report Ext. P-3/PW-7 but having been indicted under section 471 of the Indian Penal Code, he denied knowledge of the tampering at the time of submission of such documents. It is also well established that from 28.02.2022, the documents were in the possession of the employment cell. The IO made no effort to create a chain of custody of such discharge book or prove whether the document was solely in the custody of the accused. The tampering relates to the height of the accused originally written as 165 cms and overwritten as 169 cms. PW-8 has testified that the height of the accused at the time of his discharge as per EME records is 165 cms which has not been controverted by the accused in cross-examination. Although medical opinions in the form of Ext. P-5/PW-2 (also marked as Ext. DX-2) and Ext. DX-1 are available on record, no contemporaneous medical report has been produced to substantiate Ext. P-4/PW-2, which purports to record the accused's height at the time of his discharge from service. In the absence of the underlying medical examination report or any supporting record, Ext. P-4/PW-2 remains an uncorroborated entry, whereas Ext. P-5/PW-2 (Ext. DX-2) and Ext. DX-1 are supported by medical opinions specifically obtained to verify the accused's height. This omission assumes significance, particularly when the prosecution seeks to rely upon Ext. P-4/PW-2 as the basis for alleging a discrepancy in the accused's height. Either way, there is no evidence that the accused had dishonest intention to either forge a document or possess knowledge as to its falsity while submitting it. Hence, the mental status or mens rea remains unproved. Accordingly, the prosecution has failed to prove the case against the accused beyond all shadows of reasonable doubt and the point no. 1 is accordingly answered in negative.

FINAL ORDER

15. As a sequel to the aforesaid discussion and findings of this Court on the point, the prosecution has failed to prove its case. Hence, accused Guman Singh is acquitted of the offence punishable under Section 471 of the Indian Penal Code. Initial Bail bonds stand discharged. Bonds under section 437-A are on record. The case stands disposed of. After due completion, be consigned to the records.

**Announced and signed in the open court today on
25th day of July, 2026.**

(Tina Malhotra)

Judicial Magistrate, First Class,
Court No. 3, Distt. Hamirpur, HP

LIST OF PROSECUTION/ DEFENCE/COURT WITNESS.

A. Prosecution:

<u>Sr. No.</u>	<u>Name of witness</u>	<u>Nature of Evidence</u>
PW-1	Brig. Madansheel Sharma (Retd.)	Complainant
PW-2	Sh. Raj Kumar	Prosecution witness
PW-3	Sh. Jai Singh	Prosecution witness
PW-4	Ct. Amit Kumar No. 184	Prosecution witness
PW-5	ASI Naresh Kumar	Prosecution witness
PW-6	Ct. Sonu Kumar No. 117	Prosecution witness
PW-7	HC Nazir Ahmed	Prosecution witness
PW-8	Sh.Surdeep Kumar Hav	Prosecution witness
PW-9	HHC Anil Kumar No. 110	Prosecution witness
PW-10	Ct. Sudhir Kashyap No. 166	Prosecution witness
PW-11	Sh. Prash Chand	Prosecution witness
PW-12	HHC Baldev Singh No. 265	Prosecution witness

B. Defence Witness: None.

C. Court Witness: None.

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS.

A. Prosecution.

<u>Exts.No./Mark</u>	<u>Date of Exts.</u>	<u>Description of Exts.</u>
P1/PW-1	22.05.2024	Application
Mark-P-1	22.05.2024	Letter
Mark P-2	22.05.2024	Letter
Mark-P3	22.05.2024	Record
P1/PW-2	03.07.2024	10 th Card
P2/PW-2	03.07.2024	Copy of 10+2 Card
P3/PW-2	03.07.2024	Newspaper
P4/PW-2	03.07.2024	EME Record letter No. 14629646F
P5/PW-2	03.07.2024	Medical report of accused
P6/PW-2	03.07.2024	Matriculation certificate
P7/PW-2	03.07.2024	Bonafide certificate

P8/PW-2	03.07.2024	Discharge Book
P1/PW-3	03.07.2024	Memo
P1/PW-4	20.09.2024	Rapat No. 34
P2/PW-4	20.09.2024	Certificate under section 65 B IEA.
P1/PW-5	04.11.2024	FIR
P2/PW-5	04.11.2024	Endorsement
P3/PW-5	04.11.2024	Certificate
P1/PW-6	03.12.2024	Rapat No. 8.
P2/PW-6	03.12.2024	Certificate under section 65B of IEA.
P1/PW-7	04.01.2025	Copy of road RC
P2/PW-7	04.01.2025	Abstract of malkhana register
P3/PW-7	04.01.2025	RFSL report
P4/PW-7	04.01.2025	Envelope
P2/PW-8	19.02.2025	Certificate under section 65B of IEA
P1/PW-9	17.10.2025	Rapat No. 67
P1/PW-10	17.10.2025	Receipt
P1/PW-11	02.05.2026	Letter
P2/PW-11	02.05.2026	Letter
P3/PW-11	02.05.2026	Letter
P4/PW-11	02.05.2026	Letter
P5/PW-11	02.05.2026	Envelope
P6/PW-11 to P20/PW-11	02.05.2026	Specimen signatures
P21/PW-11	02.05.2026	Discharge book
P22/PW-11	02.05.2026	Sample seal impression on cloth
P23/PW-11	02.05.2026	Statement of witness Jai Singh
Mark P1	20.05.2024	Letter
Mark P-2	22.05.2024	Personal/service particulars
Mark-P3	22.03.2024	Tampered Entry made on Discharge Book letter
Mark-P4	22.03.2024	Original for Recipient
Mark-P5	22.03.2024	Newspaper
Mark-P6	22.03.2026	Tampered Entry made on discharge Book at Height Sr. No. 17 letter

B. Defence Exhibits:

DX1	02.05.2026	Medical fitness certificate
DX2	02.05.2026	Medical prescription

C. Court Exhibits: None.

D. LIST OF MATERIAL OBJECTS: None.

E. Details of Bonds furnished by accused under Section 437-A of Cr.PC (now 481 BNSS).

Sr. No	Particulars of accused	Personal Bond (₹.)	Particulars of surety	Surety Bond (₹.)
1.	Guman Singh son of late Sh. Mathu Ram, resident of Village Bajowa, Tehsil Theog, District Shimla, H.P.	₹ 40,000/-	Joginder Singh son of Sh. Dhani Ram, resident of Village Kargoli PO Balghar, Tehsil Theog, District Shimla H.P.	₹40,000/-

(Tina Malhotra)

Judicial Magistrate First Class,
Court No. 3, Hamirpur, HP.