



**Serial No.01**  
**Supplementary List**

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

Crl. Rev. P. No.19 of 2019      Date of hearing : 15.06.2026  
 Date of decision : 28.07.2026

Shri Godfrey Albert Decker  
 S/o Albert Decker  
 R/o Springside, Jingkieng,  
 Nongthymmai,  
 East Khasi Hills District,  
 Shillong-14

..... Petitioner

**-VERSUS**

1. State of Meghalaya, through the  
 Superintendent of Police, East  
 Khasi Hills District, Shillong,  
 Meghalaya.

2. The Officer-in-Charge, Sardar  
 Police Station, East Khasi Hills  
 District, Shillong, Meghalaya.

.....Respondents

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**Coram:**

**Hon'ble Mr. Justice B. Bhattacharjee, Judge**

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**Appearance:**

For the Petitioner/Appellant(s) : Mr. R. Gurung, Adv  
 Ms. S.D. Sangma, Adv.

For the Respondent(s) : Mr. H. Kharmih, Addl. PP.

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**Judgment and Order**

1. This criminal revision petition has been preferred against the impugned Judgment and Order dated 22.02.2018 passed in G.R. Case No. 203(S) 2012



by the Judicial Magistrate First Class, Shillong, convicting the petitioner u/s 14 of the Foreigners Act, 1946 and also the impugned Judgment and Order dated 10.04.2019 passed by the Additional Sessions Judge, Shillong in Crl. Appeal No. 2 (H) 2018 confirming the conviction and sentence of the petitioner.

2. The revision petition discloses that the petitioner, a Nigerian citizen, is married to a local lady and has a minor son. The petitioner, after his arrival in India, was initially engaged in playing professional football in Delhi and had subsequently come to Shillong for playing football, where he met his present wife.

3. On 19.06.2012, an FIR was lodged before the Officer-in-Charge, Shillong Sadar Police Station, by the Dy. Superintendent of Police (DSB), East Khasi Hills District, Shillong, alleging that the petitioner, holder of Passport No. 008143266 dated 05.02.2009, had obtained visa extension on two occasions from the office of the Foreigners Regional Registration Officer (FRRO), New Delhi, duly signed by the Asstt. Foreigners Regional Registration Officer, New Delhi. On Scrutiny of the visa endorsement of the current extension at that point of time, it was found that there were some contradictions in the endorsement concerning the date of validity of visa and Memo Number on the visa endorsement. A clarification was sought from the office of the FRRO, New Delhi, upon which a Fax Message was received from FRRO, New Delhi, dated 15.06.2012 confirming that the petitioner had never registered with the said office and no such extension of visa was granted by that office and that the stamp affixed on the visa was fake. On the above backdrop, a request was made in the FIR for initiation of appropriate legal action against the petitioner.

4. The aforesaid FIR was registered as Sadar P.S. Case No. 102 (6) of 2012 u/s 468/471 IPC r/w Section 14 of the Foreigners Act, 1946 and the matter was investigated into. Afterwards, on completion of the investigation,



a chargesheet was filed against the petitioner under the aforementioned sections of law and the petitioner was made to face trial before the Court of the Judicial Magistrate First Class, Shillong, in G.R. Case No. 203 (S) 2012. The learned Judicial Magistrate First Class by Judgment and Order dated 22.02.2018 acquitted the petitioner of the charges u/s 468/471 IPC, but convicted him u/s 14 of the Foreigners Act, 1946, and by order dated 05.03.2018 sentenced the petitioner to undergo 1 month imprisonment and imposed a fine of Rs. 5000/-. The petitioner preferred an appeal, registered as Crl. Appeal No. 2 (H) of 2018, against his conviction and sentence before the Court of the Additional Sessions Judge, Shillong, which came to be dismissed by Judgment and Order dated 10.04.2019. Being aggrieved, the petitioner has filed this revision petition before this Court.

5. Mr. R. Gurung, learned counsel appearing for the petitioner, submits that the Trial Court as well as the Appellate Court have failed to appreciate the fact that since no case has been made out against the petitioner u/s 468/471 IPC, his conviction u/s 14 of the Foreigners Act, 1946 has no leg to stand. He submits that the prosecution has failed to bring out any evidence to show the petitioner's involvement in any act of forgery or use of forged document as genuine. He submits that there is no proof that the visa extension entry in the passport of the petitioner was forged. He submits that the prosecution has failed to conduct any investigation on the core allegation made in the FIR as no official of the office of the FRRO, New Delhi was examined as witness to prove the Fax Message dated 18.06.2012. He further submits that the original seal of the FRRO, New Delhi was never seized or produced before the Trial Court for examination/comparison with the alleged fake seal on the visa extension entry. He submits that both the Courts below erred in accepting the evidence led by the prosecution by overlooking the mandate of law contained in Section 60 and 73 of the Indian Evidence Act, 1872. The learned counsel places reliance on the decision of the Kerala High Court in *K.K. Pavithran V.*



*State of Kerala, (2012) SCC OnLine Ker 4683*, and submits that the allegation of fake seal on the visa extension entry can be proved only by producing and comparing with the original seal. He also refers to the decision of Gujarat High Court in *Arvind Balashanker Joshi V State of Gujarat, (1990) SCC OnLine Guj 64*, to contend that once the petitioner is acquitted of the charge u/s 468 IPC, he cannot be convicted for the offence u/s 471 IPC. He submits that both the Courts below have proceeded to decide the matter against the petitioner without proper analysis of the prosecution evidence. He, therefore, submits that the decisions rendered by the Trial Court and the Appellate Court are not tenable in the facts and circumstances of the case and liable to be set aside and quashed by this Court.

6. Mr. H. Kharmih, learned Addl. PP, appearing for the State-respondents submits that the concurrent findings recorded by the Trial Court as well as by the Appellate Court do not require any interference by this Court. He submits that there are two extensions of visa, the first extension is in order, but the second extension is found to be doubtful as it does not contain any extension number, date of issue and the seal of the FRRO, New Delhi do not match with the original office stamp of FRRO, New Delhi. He submits that the Fax Message dated 15.06.2012 of the FRRO, New Delhi establishes that there was no extension of visa of the petitioner till 16.10.2012 and further, the FSL report dated 27.09.2012 confirms that the second extension was a fake one. He submits that even it is assumed that the forged entry of extension of visa in the passport (Material Exhibit-1) is genuine, the petitioner cannot be exonerated from the charge u/s 14 of the Foreigners Act, 1946 in view of the fact that the extension was granted till 16.10.2012 only on 15.10.2012, almost after one year of the expiry of previous visa which was valid till 17.10.2011. He further submits that mere acquittal of the petitioner for the offence u/s 468/471 IPC would not lead to automatic exoneration u/s 14 of the Foreigners Act, 1946 as the petitioner failed to offer any explanation with regard to his



overstay in India after 17.10.2011. He, thus, submits that the conviction and sentence of the petitioner do not suffer from any illegality or infirmity and the instant revision petition, being devoid of merit, is liable to be dismissed.

7. Upon hearing the submissions made on behalf of the rival parties and on perusal of materials on record as well as the evidence adduced during the trial, it appears that the petitioner, a Nigerian citizen, was registered with the office of the Superintendent of Police-cum-Foreigners Registration Officer, East Khasi Hills District, Shillong vide Registration No. 96/11 dated 06.09.2011. The petitioner, at that point of time was holding a Passport bearing No. 008143266 dated 05.02.2009 valid till 04.02.2014, having extended visa up to 17.10.2011 issued vide extension No. 672/NIG/DL/10 dated 18.10.2010. On 12.09.2011, the petitioner left Shillong for Guwahati and reported back to the Foreigners Registration Office (FRO), Shillong in the month of April, 2012. On checking, it was found that his visa was extended by the Asstt. Foreigners Regional Registration Office, New Delhi till 16.10.2012 vide a memo dated 15.10.2012. As the extension (second) appeared to have been issued only one day prior to the date of expiry of extended visa, it raised doubts and accordingly a clarification was sought from the office of the FRRO, New Delhi by the office of the FRO, Shillong vide letter dated 17.04.2012. The FRRO, New Delhi vide Fax Message dated 15.06.2012 responded by communicating that the petitioner was not registered with their office and no extension was given to him by the office. Further, the stamp of FRRO, New Delhi appearing on the passport was fake. The FIR dated 19.06.2012 was, thereafter, lodged for initiating necessary legal action against the petitioner.

8. The petitioner was charged u/s 468/471 IPC and also u/s 14 of the Foreigners Act, 1946 at the trial. The learned Trial Court at the conclusion of the trial exonerated the petitioner of the charges u/s 468/471 IPC, but convicted him u/s 14 of the Foreigners Act, 1946. It appears that the decision



of the Trial Court was primarily based on the deposition of PW-1, the Fax Message dated 15.06.2012 and the second visa extension entry in the passport of the petitioner. The Fax Message dated 15.06.2012 was exhibited as Exhibit-2 without there being any objection to the admissibility of the document. The Passport of the petitioner was exhibited as Material Exhibit-1. In addition, the prosecution supported its case by an opinion dated 27.09.2012 of the Forensic Science Laboratory, Shillong, exhibited as Exhibit-5 with regard to the entries made in the passport of the petitioner. However, it appears from Exhibit-5 and the evidence of PW-5 that the opinion was rendered without there being any similar specimen for comparison with the questioned seal impressions.

**9.** The learned Appellate Court by its Judgment and Order dated 10.04.2019 did not see any reason to interfere with the Judgment and Order of the Trial Court and upheld the same with further observation that the petitioner has also not adduced any evidence to show that the second visa extension was genuine.

**10.** The case record indicates that the petitioner did not raise any objection with regard to the admissibility of the Fax Message dated 15.06.2012 as Exhibit-2 before the Trial Court on the ground that the same could not have been considered as primary evidence and that there was a requirement of fulfillment of conditions prescribed by section 65 of the Indian Evidence Act, 1872. No such plea has also been raised before the Appellate Court or even before this Court. Further, there is no argument that Exhibit-2 was not documentary evidence as it fell under the category of electronic evidence, admissibility of which required certificate in terms of section 65B (4) of the Indian Evidence Act, 1872. Once the Fax Message has been admitted as documentary evidence without any objection and marked as Exhibit-2, the mode adopted for proving the Exhibit-2 cannot be allowed to be raised before this Revisional Court for the first time.

**11.** A perusal of the Material Exhibit-1 would show that there were two



extensions of visa. The first extension, issued vide Extension No. 672/NIG/DL/10 dated 18.10.2010, was up to 17.10.2011. The second extension, which is alleged to be a forged one, appears to be issued on 15.10.2012, for a period up to 16.10.2012. Undisputedly, the Material Exhibit-1 does not show any extension of visa for the period of 18.10.2011 till 15.10.2012.

**12.** In the above situation, the contention of the learned counsel for the petitioner that once the petitioner is exonerated of the offences u/s 468/471 IPC, he could not have been convicted u/s 14 of the Foreigners Act, 1946 does not hold water. In a criminal trial under section 14 of the Foreigners Act, the prosecution must first establish a foundational *prima facie* case that the accused is a foreigner and lacked a valid visa upon apprehension. In the present case, there is no dispute to the fact that the petitioner is a Nigerian citizen and he came to India on the strength of the Material Exhibit-1. The basic fact that the petitioner was found in India past the authorised visa period recorded by law enforcement is *prima facie* established by Exhibit-2. Once it is admitted and proved that the petitioner is a foreign national, the burden shifted on him as per Section 106 of the Indian Evidence Act, 1872 to place on record the document which authorized him to remain in India validly.

**13.** The pleas raised by the learned counsel for the petitioner on the basis of Section 60 and 73 of the Indian Evidence Act, 1872 is also of no consequence as the petitioner has failed to offer any explanation as to the validity of his stay in India from 18.10.2011 onwards. That apart, nothing has been pointed out to persuade this Court to interfere with the concurrent finding recorded by the Trial Court and the Appellate Court.

**14.** The petitioner in his statement u/s 313 Cr.P.C. did not offer any explanation as to how the second visa extension entry came to be recorded in his passport. The only explanation offered by him was that he was injured during that relevant time and he gave money to his friend to renew his passport



and visa. However, no description or detail of any such friend was disclosed by the petitioner before the Trial Court. The plea of engagement of third person or agent is considered to be a weak defense without there being any proof of such engagement. Simply blaming a third party or agent does not wipe away personal liability.

**15.** The case of *K.K. Pavithran (Supra)* cited by the learned counsel for the petitioner does not lend any help to the petitioner as the Exhibit-2 is not an opinion in terms of definition of Section 45 of the Indian Evidence Act, 1872. Further, the decision of *Arvind Balashanker Joshi (Supra)* has no application in the present matter as the acquittal of the petitioner u/s 468/471 IPC is not under challenge in this revision petition.

**16.** For what has been discussed above, the petitioner has failed to make out a case for interference with the concurrent findings of the courts below. The revision petition, as such, is devoid of merit and hereby stands dismissed.

**17.** The petitioner is directed to surrender before the Trial Court and be taken into custody forthwith to serve the sentence. The bail bonds, if any, are hereby cancelled.

**18.** The records of the Trial Court as well as the Appellate Court be returned forthwith.

**19.** Let an authenticated copy of this Judgment and Order be supplied to the respective parties, free of cost, immediately.

**Judge**

Meghalaya  
28.07.2026  
"Ahinandan,PS"