

HIGH COURT OF TRIPURA AGARTALA

Crl. Rev. P. 112 of 2006

Sri Pankaj Bhowmik
S/o late Chitta Ranjan Bhowmik
Vill. Babul Chowmuhani
P.S. Amtali,
Dist. West Tripura... convict-appellant Petitioner

-VS-

The State of Tripura Respondent

BEFORE THE HON'BLE MR JUSTICE U.B. SAHA

Advocate for the petitioner : Mr. Somik Deb
Advocate

Advocate for the respondent : Mr. R.C. Debnath
Addl. P.P.

Date of hearing : 12.01.2015
& delivery of the judgment.

Whether fit for reporting : No

JUDGEMENT AND ORDER(oral)

1. This revision petition is directed against the judgment dated 15.9.2006 passed by the learned Appellate court in Title Appeal No. 9 (2) of 2006 wherein the learned appellate court affirmed the conviction passed by the learned Sub-divisional

Judicial Magistrate, Dharmanagar, North Tripura in GR case No 84 of 2005 convicting the petitioner under Section 468 of the IPC and imposing sentence to suffer R.I. for two years with a fine of Rs.5000/- in default of payment of fine to suffer further R.I. for six months, and modified the sentence from two years to one year R.I. with a fine of Rs. 5000/-, in default of payment of fine to suffer R.I. for six months.

2. Heard Mr. Somik Deb, learned counsel for the petitioner as well as Mr. R.C. Debnath, learned Addl. P.P. for the respondent-state.

3. The prosecution case in brief is that on 12.3.2005, the petitioner being driver of the truck placed his truck at Dharmanagar FCI godown for carrying sugar on behalf of the carrying contractor. When the said vehicle placed on the weigh-bridge of the FCI godown before loading of the sugar in the truck, it was detected that the truck of the petitioner was carrying forged number plate etc. Accordingly, the truck was detained and during thorough checking, it was found that the number written on both sides of the body of the truck also tampered by some black grease. On slight removal of the same, the original number became visible. In the number plate, the number of the truck was written as TR-01-A-1566 in place of original no. TR-01-A-1567. The number of the vehicle in the number plate and sides of the vehicle was made as such

to cheat the FCI and take away the Government properties like sugar.

4. Accordingly, the police was informed and the petitioner was handed over to the police. After investigation, the police submitted charge sheet and on the basis of the same, the learned trial court conducted the trial and convicted the petitioner under Section 468 IPC and sentenced to suffer R.I. for two years with a fine of Rs.5000/- against which an appeal was preferred by the petitioner and in the appeal, the Appellate court when upheld the order of conviction, modified the sentence to the extent as indicated above. Being aggrieved by and dissatisfied with the judgment of the learned Appellate court modifying the order of sentence passed by the trial court, the instant revision petition is filed.

5. The points arose for decision is that whether the impugned judgment of conviction is based on materials and evidence on record and the sentence imposed upon him is proportionate, rational, justified and also maintainable in law.

6. The charge was framed by the trial court under Section 468 IPC at the commencement of the trial on the allegation that the petitioner forged the certain documents, i.e., altered the actual number plate of the vehicle bearing No. TR-01-A-1567 to a forged number of TR-01-A 1566 while going for

loading sugar from food the godown of FCI, Dharmanagar and tried to cheat in that respect.

7. From the side of the prosecution as many as six witnesses were examined. P.W. 1, Sri P.M. Sangma is the informant and Assistant Manager of the FCI, Dharmanagar, P.W 2, Sri Haricharan Sarkar , P.W 3, Sri Puspendu Kar Purakaystha is the agent of the carrying contractor of the FCI for carrying sugar etc from the FCI godown , Dharmanagar, P.W. 4, Sri Nikhil Saha is the another agent of another carrying contractor of FCI, P.W. 5, Sri Kalipada Chakraborty is an office bearer of the Truck Operators Association, Dharmanagar Branch as well as seizure witness of the number plate and P.W. 6, Dhri Damir Roy is the Investigating officer of the case.

8. Mr. Deb while urging for setting aside the order of conviction passed by the trial court and affirmed by the learned appellate court would contend that the number plate is not a document as per Section 29 of the Indian Penal Code (IPC). Thus, question of forging document does not arise at all. He has also urged that it is not proved by the prosecution who has forged the number plate. More so, by way of alleged forging document, the petitioner is not gaining anything for his own benefit and he has also not cheated FCI, Dharmanagar as alleged.

9. On the other hand, Mr. Debnath, learned Addl. P.P. while supporting the judgment of the trial court affirmed by the learned Appellate Court would contend that number plate is a document as the substances of the said number plate is letters, figures or marks which may be used as evidence. He further submits that as the petitioner has changed the letter of the number plate, he has actually forged the said document and such forging was done to take sugar from the godown of FCI, Dharmanagar by way of cheating the authority. Thus, according to him, the petitioner committed an offence under Section 468 IPC and that the learned trial Court as well as the appellate court has rightly convicted the petitioner and sentenced to suffer imprisonment for one year with a fine of Rs.5000/- .

10. This Court has gone through the evidence on record. The prosecution has mainly based on evidence of P.W. 3, the agent of the carrying contractor whose evidence is fully corroborated by other witness. It also appears from the evidence of P.W. 3 that on 12.3.2005 while he was working as an Agent of the carrying contractor Sri S.C. Dey, he had issued loading slip against ten vehicles (truck) for carrying sugar from FCI, Dharmanagar godown. The accused petitioner Pankaj Bhowmik also on that day came to him with his vehicle bearing registration No. TR 01 A 1566. Accordingly, he issued loading slip for the said vehicle to carry good from the FCI godown. But when the vehicle was taken to the weigh bridge, he noticed

that the registration number of the said vehicle was covered by grease. Due to suspicion, he asked the driver to remove the grease and when the grease was removed, the registration number in the vehicle was found as TR-01-A-1567 whereas the original number was TR-01-A 1566. So he informed the matter to the weigh bridge In-charge, (P.W. 2) who called the Asstt. Manager, FCI (P.W. 1). On receiving the said information, Asstt. Manager, FCI came and he informed the matter to the police. P.W. 1, 2, 4 and 5 also corroborated the evidence of P.W. 3.

11. Upon going through the provisions of Section 29 of the IPC, this court is of the considered opinion that the number plate is a document being the said number plate describes numbers of the vehicle by means of letters and figures. Thus, according to this court, submission of Mr. Deb that the number plate is not a document has no force.

12. Now let us consider whether the order of conviction passed by the learned trial court and affirmed by the appellate court is sound or not. According to this court, it appears from the record that the number plate was changed by the petitioner as the same was in his custody while placing his truck before the weigh bridge of the FCI. Therefore, question of setting aside the order of conviction does not arise. However, as the petitioner was in custody for a period of one month as an under-trial prisoner and the instant petition is pending since 2006 and the alleged offence was committed in the year 2005,

it would be proper to modify the sentence. Accordingly, the sentence is modified to the period which he has already undergone with a fine of Rs.10,000/-only, in default of payment of fine, the petitioner is to suffer R.I. for one year. As the petitioner is on bail, he shall deposit the fine money within a period of two months from today. It is made clear that if the fine money is not deposited within the aforesaid period of two months, then the surety of the petitioner is duty bound to produce the petitioner and the petitioner is also duty bound to appear before the learned trial Court to serve out the sentence as modified. However, on deposit of the fine money, bail bond shall stand discharged.

13. With the above, the petition is partly allowed.

Send down the L.C. records.

JUDGE

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