

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

**CRR No.1086 of 2007 (O&M).
Date of Decision: 24.10.2016.**

Balvir Singh (now deceased) represented by his L.Rs. Hira Devi and others

....Petitioner.

VERSUS

State of Punjab

....Respondent.

CORAM : HON'BLE MRS. JUSTICE SNEH PRASHAR

Present: Mr. Ankush Singla, Advocate for the petitioner.

Mr. Ankur Jain, Assistant Advocate General, Punjab.

SNEH PRASHAR, J.

This revision is directed against the judgment dated 30.05.2007 recorded by learned Additional Sessions Judge, Sangrur in Criminal Appeal No.75 of 28.08.2003 whereby the appeal filed by the petitioner assailing the judgment of conviction and order of sentence dated 01.08.2003 passed by learned Additional Chief Judicial Magistrate, Sangur, in Police Challan No.11 of 24.01.1997 based on First Information Report No.144 dated 30.07.1995 registered at Police Station Kotwali, Sangur, was dismissed.

The case of the prosecution, in precise, was that on 24.07.1995 Balvir Singh, Conductor No.B-216 of Pepsu Road Transport Corporation (for short, "P.R.T.C."), Sangrur Depot, was on duty on Bus No.PB-11C-9202 enroute Sangrur-Lehra-Rishikesh. On 25.07.1995 as well, when the bus was on its way back from Rishikesh to Sangrur via Sunam, conductor

bus reached at Rajpura near Dhaga factory, it was checked by Ratti Ram, General Manager (Enforcement), Som Parkash, Chief Inspector, Narinder Singh, Chief Inspector and Rattan Singh, Inspector. On suspicion, the checking officers collected 23 tickets, of the denomination of Rs.10/- each having series 'AF' of Punjab area, from the passengers in the presence of Balvir Singh (conductor) which had been issued by him. The three waybills including waybill No.2344 of Punjab area were obtained from Balvir Singh. On enquiry from the record of Sangrur Depot at Sangrur, it was found that waybill of Punjab area No.2344 and the 23 tickets of the denomination of Rs.10/- each collected from the passengers by the checking party were fake/forged. The said way bill and tickets valuing Rs.3140/- sold by Balvir Singh had never been issued to him. Further verification indicated that the aforesaid tickets were issued to Barnala Depot by the head office, which were further issued to the conductors of the said Depot and had already been sold by them and the amount had been deposited with the concerned depot. From the report of the checking staff, it was established that Balvir Singh, Conductor had sold fake and forged tickets valuing Rs.3140/-. Shri P.S. Sodhi, CAE-cum-TA was directed to search the house of Conductor Balvir Singh with the help of police authorities for further investigation. On search, 17 punched tickets were recovered. It was also mentioned that Balvir Singh had committed the offence in connivance with Amarjit Singh, conductor No.F-140, P.R.T.C., Chandigarh depot, Karamjit Singh, conductor No.746, P.R.T.C., Sangrur depot, Darshan Singh, conductor No.K-212, P.R.T.C., Sangrur depot and Lakhbir Singh alias Lakhi, conductor No.B-II-16 Sangrur.

Managing Director, P.R.T.C., Patiala to the Senior Superintendent of Police, Sangrur, the instant case was registered. During investigation, a block for preparing tickets was taken into possession with numbering machine from one Vinod Kumar (since acquitted by the trial Court).

The appellant Balvir Singh was arrested and on completion of investigation was sent to the Court to face trial.

The petitioner was charge-sheeted and subjected to face trial for commission of offence under Sections 420, 468, 471 read with Section 34 of the Indian Penal Code (for short, "IPC"), to which he pleaded not guilty and claimed trial.

To substantiate the charge, the prosecution examined as many as 16 witnesses namely, PW1 ASI Tara Chand, PW2 Som Parkash, Chief Inspector, PW3 Ratti Ram, General Manager (Retd.), PW4 Narinder Singh, Chief Inspector, PW5 Parminder Singh Sodhi, PW6 Balwant Rai, Inspector, PW7 Bal Krishan, Inspector, PW8 Atma Singh, Sub Inspector, PW9 Karnail Singh, Adda Incharge, PW10 Ikbali Singh, General Manager, P.R.T.C., PW11 Rattan Singh, Inspector, PW12 Jail Singh, Conductor, PW13 Jeet Singh, Conductor, PW14 ASI Sher Singh, PW15 Achru Ram, Ex. Superintendent and PW16 ASI Mohinder Singh.

After closure of evidence of the prosecution, in his statement recorded under Section 313 Cr.P.C., the petitioner denied the case of the prosecution and pleaded innocence and false implication.

In defence evidence, Harnek Singh was examined as DW1.

Analyzing the evidence available on record and the submissions made by learned Additional Public Prosecutor and learned

and sentenced the petitioner to undergo rigorous imprisonment for three years and to pay a fine of Rs.2000/- for commission of offence punishable under Section 420 IPC and in default of payment of fine, to further undergo rigorous imprisonment for three months. He was also sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.2000/- for commission of offence punishable under Section 471 IPC and in default of payment of fine, to further undergo rigorous imprisonment for three months. It was ordered that both the sentences shall run concurrently.

Feeling aggrieved by the impugned judgment of conviction and order of sentence dated 01.08.2003 passed by learned trial Court, the petitioner preferred an appeal which was dismissed by learned Additional Sessions Judge, Sangrur vide judgment dated 30.05.2007.

Still dissatisfied, the petitioner preferred the instant revision petition.

Here it is relevant to mention that petitioner Balvir Singh has since expired and his legal representatives Hira Devi (mother), Krishna Devi (wife), Sukhvir Singh, Sandeep Kumar (sons) and Rajwinder Kaushal (daughter) were allowed to pursue the revision petition by way of order of this Court dated 05.11.2014.

The submissions made by Mr. Ankush Singla, learned counsel representing the petitioner and Mr. Ankur Jain, learned Assistant Advocate General for the State of Punjab have been heard and record perused.

The foremost, emphatically raised, argument of learned counsel for the petitioner is that as per allegation of the prosecution, the waybill No.2344 dated 18.07.1995 (Ex.P5) and the 23 tickets of the denomination of

checking team from the passengers were fake/forged. The waybill Ex.P5 shows that it was signed by Sub Inspector Atma Singh. PW2 Som Parkash, Chief Inspector, P.R.T.C. and PW9 Karnail Singh, Incharge, P.R.T.C., Sangrur Depot identified the signatures of Atma Singh on the waybill Ex.P5 during their deposition. It was also not the case of the prosecution that the waybill Ex.P5, which was not on the printed proforma of P.R.T.C. All other tickets of different denomination and serial numbers as mentioned in Ex.P5 were admittedly correct and genuine. As such, it cannot be said that the waybill Ex.P5 was a fake document. Learned counsel further argued that no passenger, to whom the alleged fake tickets had been issued by petitioner Balvir Singh, was joined in investigation. It was also admitted by the witnesses of the prosecution that some duplicate tickets by mistake were got printed by P.R.T.C. and on detection of the mistake, the same were withdrawn from circulation. When the other two waybills relating to the State of Haryana and Uttar Pradesh, recovered from the appellant, were genuine, the waybill in dispute on the mere statement of PW8 Atma Singh, could not be held to be fake or fabricated. Learned counsel added that the amount of Rs.3140/- was deposited by the petitioner with the department. To support his argument that the prosecution has to prove the guilt of the accused beyond all shadows of reasonable doubt and that the onus is always on the prosecution to prove affirmatively each ingredient of the offence, learned counsel relied upon *State of Gujarat vs. Jayrajibhai Punjabhai Varu, 2016(3) R.C.R. (Criminal) 918 and Narender Kumar vs. State (NCT of Delhi), 2012(3) R.C.R. (Criminal) 66.*

Learned State counsel controverted the argument of learned

counsel for the petitioner and submitted that on scrutiny of the ocular and

documentary evidence led by the prosecution, learned trial Court held guilty and the finding was affirmed by learned first appellate Court that waybill No.2344 dated 18.07.1995 (Ex.P5) was a fabricated document. It was proved by PW2 Som Parkash, Chief Inspector, P.R.T.C. as well as PW3 Ratti Ram, Retired General Manager, P.R.T.C. that the actual waybill of Punjab issued by the concerned office to Conductor Balvir Singh had the number 2468. The said original waybill is Ex.P6 wherein the tickets of the denomination of Rs.10/- having series 'AG' and 53 in number are shown to be issued to Conductor Balvir Singh on 12.07.1995. The waybill Ex.P6 was issued by PW9 Karnail Singh and not by Atma Singh.

Admittedly, the waybill Ex.P5 was obtained by the Checking team from Conductor Balvir Singh when he was on duty on the bus enroute Rishikesh to Sangrur via Sunam. In the waybill Ex.P5, 314 tickets of the denomination of Rs.10/- each having series 'AF' were recorded to be with the petitioner alongwith number of other tickets of different denomination and series.

The argument of learned counsel for the petitioner that it has come in evidence that some duplicate tickets were got printed by mistake by the department which were lateron withdrawn, is not relevant in relation to the instant case. It was not the case that duplicate tickets mistakenly printed by the department were being sold by Balvir Singh. The allegation against Balvir Singh was that the waybill No.2344 of Punjab (Ex.P5) taken into possession from petitioner Balvir Singh by the Flying Squad during the process of checking, on verification from the record of the department, was found to be a fake waybill. The waybill Ex.P5, which admittedly is a carbon

Atma Singh who was working as a Booking Clerk, P.R.T.C. on the relevant date i.e. 18.07.1995. In his statement recorded on 27.07.1995 during investigation, Atma Singh categorically stated that the waybill Ex.P5 was not issued by him to the petitioner and it does not bear his signatures. Atma Singh appeared as PW8 during the trial and reiterated his version. He testified that the waybill Ex.P5 was neither issued by him nor bears his signatures. He also stated that the entry of tickets of the denomination of Rs.10/- bearing serial No.866487 to 866700 and 866801 to 866900 were not issued by him.

When Atma Singh, Sub Inspector, P.R.T.C. stated that the waybill in question Ex.P5 does not bear his signatures, no credence could be attached to the testimony of PW2 Som Parkash, Chief Inspector or of PW9 Karnail Singh, who stated that the signatures on Ex.P5 are of Atma Singh. Their statement with regard to the signatures was only their opinion which could not be preferred to the deposition of PW8 Atma Singh. Had they identified the signatures of Sub Inspector Atma Singh, they would have lodged a complaint against him also because as per record waybill Ex.P5 was a forged document and its original was not available in the office record.

Be that as it may, the allegation of the prosecution is that the waybill Ex.P5 was not the waybill issued to petitioner Balvir Singh. The original waybills issued to petitioner Balvir Singh on 18.07.1995 were numbered 2468, 2467 and 2383 Ex.P6, Ex.P7 and Ex.P8 respectively. The said waybills were proved by PW9 Karnail Singh, Bus Stand Incharge, P.R.T.C., Sangrur Depot and he stated that no other waybill was issued to

tickets of the denomination of Rs.10/- bearing No.AG 436348 to 436400 relating to State of Punjab were issued to Balvir Singh.

From the statement of PW9 Karnail Singh, it stands established that the waybill Ex.P6 of the State of Punjab, according to which 53 tickets of the denomination of Rs.10/- series 'AG', were issued to petitioner Balvir Singh. The original of the waybill Ex.P6 was in the record and the carbon copy of the said bill should have been with the petitioner. When all other tickets of various denomination, series and number as recorded in Ex.P6 were the same as in the waybill Ex.P5 i.e. the carbon copy of a waybill with him, it was for petitioner Balvir Singh to explain how the series, numbers and total number of the tickets of the denomination of Rs.10/- recorded in waybill Ex.P5 were different from the original way bill Ex.P6 issued to him. The said fact was sufficient to prove that the tickets of the denomination of Rs.10/- valuing Rs.3140/- sold by the petitioner were fake and forged. There was no necessity for joining any passenger in the investigation as he was not a relevant witness. The relevancy of the waybill taken in possession from petitioner Balvir Singh was to be verified from the original record maintained by the department. It was stated by PW1 ASI Tara Chand that on verification from Printing Press, Patiala, it was reported by Santokh Singh, Deputy Controller of the Press that the tickets sold by Balvir Singh had not been printed by his press. It may be added that on search of the house of petitioner also some punched tickets were recovered.

It may be true that the amount of the fake tickets was deposited by the petitioner, but the fact remains that he had sold and used fake tickets during the course of his duty.

Thus, there appears to be no ground for interfering in the

consistent finding of learned trial Court and of learned first appellate Court holding petitioner Balvir Singh guilty of commission of offence under Sections 420 and 471 IPC. The petition being devoid of merit is dismissed.

(SNEH PRASHAR)
JUDGE

24.10.2016.

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Whether speaking/ reasoned : **Yes**

Whether Reportable : **Yes**