

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No.S-344-SB of 2005

Date of Decision : August 11, 2017

Avtar Singh

.....Appellant

VERSUS

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE T.P.SMANN

Present : Mr. R.S. Athwal, Advocate
for the appellant.

Mr. Jagmohan Ghumman, Deputy A.G., Punjab.

T.P.S. MANN, J.

Convict-Avtar Singh has filed the present appeal for challenging the judgment and order dated 4.2.2005 passed by learned Additional Sessions Judge, (Adhoc), Jalandhar, whereby he stood convicted and sentenced as mentioned below :-

- (i) Convicted under Section 255 IPC and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo rigorous imprisonment for two months;
- (ii) Convicted under Section 472 IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.500/- and

in default of payment of fine, to further undergo rigorous imprisonment for two months; and

- (iii) Convicted under Section 467 IPC and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo rigorous imprisonment for two months.

All the sentences were ordered to run concurrently.

According to the prosecution, on 7.6.2001, SI Ravinder Kumar alongwith police party was present near Old Sabzi Mandi Chowk, Jalandhar for patrolling in a vehicle being driven by Gurdev Singh, where he received secret information that Avtar Singh appellant was providing forged and fabricated R.Cs, permits and licences to truck and tempo operators and if raid was conducted, forged and fabricated documents and seals could be recovered. Ruqa was sent to the Police Station, on the basis of which FIR was registered. Thereafter a raiding party was constituted and one Sunil Kumar associated with the same. The police party reached the spot where the appellant was doing the aforesaid activities. He was apprehended by the aforesaid Sub Inspector and from his possession, one stamp pad, one seal for making serial numbers, one seal of Secretary, R.T.A., Jalandhar for State Transport Commissioner, Punjab, one seal of D.T.O., Jalandhar, one square seal, one circular stamp mark Ashoka and Hoshiarpur, some other rubber stamps and blank forms were also recovered. After

completion of necessary investigation, report under Section 173 Cr.P.C was presented in the Court. The case was committed to the Court of Sessions for trial. Charge against the appellant was framed to which he pleaded not guilty and claimed trial.

The prosecution, in support of its case, examined Rupinder Pal Singh, D.T.O., Jalandhar as PW1, who deposed that on 18.6.2001 Sub Inspector Ravinder Kumar visited his office and had shown him one stamp bearing impression District Transport Office, Jalandhar and another stamp bearing serial No.60222. After seeing both those stamps Ex.P1 and Ex.P2, he found that neither the same were issued by their office nor belonged to them. He further stated that vide letter 18.06.2001 (Ex.PA), he informed the Incharge, CIA Staff, Jalandhar in this regard. Copy of said letter (Ex.PB) was also shown to him by the C.I.A. Staff, Jalandhar.

PW2 Shri J.S. Ghuman, Regional Transport Authority, Jalandhar deposed that vide letter dated 18.06.2001 (Ex.PC), Sub Inspector Ravinder Kumar, C.I.A. Staff, Jalandhar had brought two stamps in his office i.e. one bearing serial numbers and another bearing impression "Secretary, Regional Transport Authority, Jalandhar for State Transport Commissioner, Punjab". He had compared those stamps Ex.P2 and Ex.P3 with the official stamps used by their office, but the said stamps did not resemble with the official stamps used by their office. He had also given his reply to the CIA Staff vide letter Ex.PD.

PW3 SI Ravinder Kumar, who was Investigating Officer of this case, deposed about the various steps taken by him during the investigation and proved on record ruqa Ex.PE; FIR Ex.PF; stamp of Secretary, Regional Transport Authority Jalandhar for State Transport Commissioner, Punjab Ex.P1; one stamp of District Transport Officer, Jalandhar Ex.P2; stamp pad Ex.P3; stamp of affixing serial numbers Ex.P4; one square stamp Ex.P5; round stamp Ex.P6; rubber stamp without handle/stand with words Khadoor Sahib, Amritsar, Jalandhar, Jaipur, Sangrur, Patiala, Bathinda, Amritsar, Mansa, Ferozepur, Chandigarh, Ambala, State Secretary, Bilaspur (HP), Kapurthala Transport, Hoshiarpur and Sirsa were written as Ex.P7 to Ex.P23; two blank form 47 bearing serial Nos. 045142 and 045148 of Government of Punjab, Motor Vehicle Department for Tourist Permit or National Permit on which stamp of "Secretary, Regional Transport Authority, Jalandhar for State Transport Commissioner, Punjab" were affixed as Ex.P24 and Ex.P25; two blank forms bearing same serial No.A760758 of National Insurance Company Limited as Ex.P26 and Ex.P27; five forms Part-B of summary to be carried by the vehicle as Ex.P28 to Ex.P32; five blank forms Part-A of Government of Punjab, Motor Vehicle Department, Contract Carriage Permit as Ex.P33 to Ex.P37; one blank form Part-B of the Public Carrier Permit Ex.P38, two blank copies of driving lincence Ex.P39 and P40 and one blank copy of RC Ex.P41; rough site plan of the place of recovery Ex.PH; arrest memo of accused Ex.PJ and recording of statements of the witnesses.

PW5 ASI Jugal Kishore had corroborated the version of PW-3 SI Ravinder Kumar.

PW4 Ashok Kumar testified that he knew the accused, who met him in the Court Complex on 25.7.2001. He came to him and stated that he had been preparing forged documents, i.e. registration certificate for vehicles, road permits and driving licences by affixing forged stamps, forged serial number and by putting forged signatures. He also stated that the police had come to know about this fact and he requested him for help in escaping from the police. Thereafter he went away and did not come to meet him again. This fact was also disclosed to him by the accused about two months back. This witness further stated that he had gone out of station for his work and, as such, he could not narrate this fact to the police.

When examined under Section 313 Cr.P.C, the appellant claimed himself to be innocent and falsely implicated.

In defence, the appellant examined Tirlochan Singh, Ex-Sarpanch of his village as DW1, who stated that on 07.06.2001 the police had come to the village and took him along to the house of the appellant, which was searched by them but no stamp or any other document was recovered from his possession.

After hearing learned counsel for the parties and on going through the record, the trial Court convicted and sentenced the appellant, as mentioned above.

This Court has heard Mr. R.S. Athwal, learned counsel for the appellant, Mr. Jagmohan Ghuman, Deputy Advocate General, Punjab and scanned the evidence with their able assistance.

Learned counsel for the appellant has submitted that though the appellant was alleged to have been apprehended alongwith various incriminating material, like forged and fabricated stamp pad, stamps of various transport authorities, rubber stamps, blank forms and contract carriage permit, etc., when he was roaming near the wall of the jail, which was a thoroughfare, yet no independent witness was joined by the police party headed by PW3 SI Ravinder Kumar. Further, the incriminating documents were not shown to be related to the department.

In his cross-examination, PW3 SI Ravinder Kumar stated that though the place of recovery was a thoroughfare yet none from the public was joined but he also stated that nobody was ready to join the investigation. Under these circumstances, the prosecution case cannot be rejected solely on the ground that it is based upon the testimonies of only official witnesses and none from the public was associated for effecting recovery of the incriminating material and documents from the appellant. As regards the various

documents not being related to the department, suffice it to say that they were forged and fabricated documents and the appellant was carrying the same at the time of his apprehension. Such forged documents would not belong to the transport department but any common man who would be interested in obtaining one from the appellant would not know as to whether the same were genuine or counterfeit. Only the official witnesses from the transport department could say that they were counterfeit and in this regard there are testimonies of PW1 Shri Rupinder Pal Singh, District Transport Officer, Jalandhar and PW2 Shri G.S. Ghuman, Regional Transport Authority, Jalandhar.

PW4 Ashok Kumar, whom the appellant knew previously has deposed about the extra judicial confession made by the appellant before him that he had been preparing forged documents, i.e. registration certificates of vehicles, road permits and driving licenses by affixing forged stamps, forged numbers and putting forged signatures. Merely because PW4 Ashok Kumar did not know which forged document was recovered from him or that no document was recovered from the appellant in his presence is no ground to reject his testimony. Even otherwise, the statements made by the remaining prosecution witnesses are sufficient to hold that the appellant was found in possession of counterfeit government stamps and various authorities, forged public carrier permits, blank driving licence copies, blank registration certificate copies upon which the

stamps of the various authorities were affixed. Under these circumstances, no case is made out for any interference in the impugned judgment of conviction passed by the learned trial Court.

As regards the question of sentence, the appellant is facing the agony of criminal prosecution for the last more than sixteen years. At the time of his conviction, he was 52 years of age. By now, he may be about 64/65 years of age. As per the custody certificate produced by the learned State counsel, he has undergone an actual sentence of one month and one day only. He is not shown to be either involved or convicted in any other case. Taking into consideration the totality of the circumstances, this Court is of the view that the sentence of imprisonment imposed upon the appellant is on the higher side. Ends of justice shall be suitably met if the sentence of imprisonment imposed upon him for the offences under Sections 255 and 467 IPC is reduced from three years to 1½ years and for the offence under Section 472 IPC, from two years to one year. At the same time, the fine of Rs.500/- imposed upon him on all the three counts, can be enhanced.

Resultantly, the conviction of the appellant under Sections 255, 472 and 467 IPC is upheld. His sentence of imprisonment for three years under Section 255 IPC is reduced to rigorous imprisonment for 1½ years. The sentence of imprisonment for three years imposed for the offence under Section 467 IPC is also

reduced to rigorous imprisonment for 1½ years, whereas the sentence of imprisonment for two years for the offence under Section 472 IPC is reduced to rigorous imprisonment for one year. The sentences of fine of Rs.500/- imposed on each count is enhanced to Rs.5,000/- and in default of payment of fine, he shall undergo rigorous imprisonment for three months. All the substantive sentences of imprisonment shall run concurrently.

But for the modification in the quantum of sentence of imprisonment and fine, as indicated above, the appeal fails and is, therefore, dismissed.

August 11, 2017
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(T.P.S. MANN)
JUDGE

Whether speaking/reasoned : YES / NO

Whether reportable : YES / NO