

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

**Criminal Misc. No.M-9521 of 2014 (O&M)
Date of Decision: May 31, 2017**

Kulwinder Singh and another

.....PETITIONER(s).

VERSUS

State of Punjab and another

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Jaspreet Singh, Advocate
for the petitioner (s).

Mr. Ashish Sanghi, D.A.G., Punjab.

Mr. G.S. Simble, Advocate
for respondent No.2.

SURINDER GUPTA, J.

Sukhjinder Singh-respondent No.2 filed a complaint before the police which was inquired and FIR No.219 dated 21.09.2013 was registered at Police Station Navi Baradari, Jalandhar City which reads as follows:-

“From his enquiry, it was found that the Bus No.PB-32-F-5188 of the applicant Sukhjinder Singh, the challan of the bus has been issued at P.A.P. Chowk while going from Batala to Jalandhar. The R.C. And Route Permit of this bus have been obtained by Kulwinder Singh son of Ishar Singh residents of Ludhiana from the office of R.T.A. Jalandhar.”

The above enquiry was conducted by Batala police and the matter was sent to Jalandhar police as the matter fell within the jurisdiction of Jalandhar police. Commissioner of Police, Jalandhar entrusted the

enquiry to Additional Deputy Commission of Police (Traffic), Jalandhar and during enquiry he observed as follows:-

“Kulwinder Singh son of Darshan Singh after obtaining the R.C. and Route Permit of the above bus with the connivance of office of R.T.A. Jalandhar, on 04.02.13 from the office of Secretary R.T.A. the Route Permit No.109/R.S./88 which was of Bus No.PB-32-F-5188 and which was valid upto 29.11.2016, got it transferred to Bus No.PB-10-CJ-0237. They are plying Bus No.PB-10-CJ-0237 on the Permit No.109/R.S./88 and Bus No.PB-32-F-5188 is parked with Sukhjinder Singh, but regarding the sale of Bus No.PB-32-F-5188 sold by Kulwinder Singh and purchase by Darshan Singh affidavits dated 28.1.13 are submitted in the office of R.T.A. Jalandhar, the photocopy of the same has been produced by applicant which is attached with the application. Actually neither the bus No.PB-32-F-5188 has been sold by Kulwinder Singh, nor it has been purchased by Darshan Singh. These affidavits are submitted by Kulwinder Singh and Darshan Singh by showing wrong facts. Kulwinder Singh son of Darshan Singh resident of House No.1, Club Enclave, Barewal Awana Road Ludhiana and Darshan Singh son of Ishar Singh resident of Green City Ferozepur Road, Ludhiana after conniving with the employees of R.T.A. Office Jalandhar and after obtaining R.C. and Route Permit of bus of the applicant, got transferred the route permit on Bus No.PB-10-CJ-0237 by wrong means and have committed fraud. As the occurrence relates to the office of R.T.A. Office Jalandhar, it was recommended to register a case under Section 420, 120B I.P.C. at Police Station Navi Baradari Jalandhar against above mentioned Kulwinder Singh son of Darshan Singh and Darshan Singh son of Ishar Singh.”

Before proceeding further, it will be relevant to have a look at the undisputed facts which are as follows:-

- (i) Bus bearing No.PB-32-F-5188 is registered in the name of Shivalik Bus Service (Registered) Balachaur.
- (ii) Bus bearing registration No.PB-10CJ-0237 to which the permit of bus No.PB-32-F-5188 was transferred is also owned by aforesaid Shivalik Bus Service.
- (iii) There is no evidence on file that Shivalik Bus Service is exclusively owned by complainant Sukhjinder Singh or he is sole proprietor of the same.

In the given facts discussed above, the question to be seen is as to whom the petitioners have cheated while submitting the affidavits Ex.R1 and R2, copy of which have been placed on file and relied by the State/prosecution.

Learned counsel for the petitioners has argued that M/s Shivalik Bus Service Pvt. Ltd. was constituted on 19.11.1987 with five partners namely Jorawar Singh, Tarsem Lal, Kabal Singh, Balbir Singh and Hargopal. Copy of partnership deed and Form-A issued by Registrar of Firms has been placed on file as Annexure P-2. The partnership was modified vide fresh partnership deed, copy of which has been placed on file as Annexure P-3, whereby Hargopal, Tarsem Lal and Balbir Singh left the partnership and Balwinder Kaur was taken as a new partner w.e.f. 25.09.1996. Copy of Form-A issued by Registrar of Firms in this regard is at page No.35 of the paper book attached with partnership deed (Annexure P-3). On 15.12.2012, partnership of M/s Shivalik Bus Service was again modified. Kulwinder Singh and Darshan Singh became partners of this firm with 50% share each. Civil litigation between the parties regarding title

over the bus in question is pending in the civil Court. Despite my repeated

queries, learned State counsel and learned counsel for complainant could not point out to me as to which document is available on police file or with the complainant to show that complainant Sukhjinder Singh has any concern with Shivalik Bus Service and if he is owner of the bus as to why the same is registered in the name of Shivalik Bus Service. In the absence of any such evidence, the allegation that sale of bus by petitioner No.1 in favour of petitioner no.2 vide Annexure R1 and R2 amounts to cheating is just farfetched and registration of FIR on this score is misuse of the process of law.

Learned counsel for the complainant has referred to one document i.e. statement of account which shows that loan was taken by respondent No.2 and bus is in possession of respondent No.2 and he had paid installments of loan. If it is so, still the question which required to be answered is as to why the bus is registered in the name of Shivalik Bus Service with which the complainant has absolutely no concern. So far as the transfer of permit of bus in question to another bus of Shivalik Bus Service is concerned, it does not amount to any cheating.

As a sequel of my above discussion, this petition has merits and the same is allowed. FIR No.219 dated 21.09.2013 registered for the offences punishable under Sections 420/120-B IPC at Police Station Navi Baradari, Jalandhar City along with all consequential proceedings, is quashed qua the petitioners.

May 31, 2017
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No