

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

CRR-1839-2014

Date of decision:-4.12.2017

Ashok Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Ranjit Singh, Advocate and
Mr.R.K. Dhiman, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J.

Petitioner – Ashok Kumar, an accused in FIR No.89 dated 17.2.2007 for the offences under Sections 420, 467, 468 and 471 IPC, registered with Police Station City, Fatehabad faced trial in the Court of learned Chief Judicial Magistrate, Fatehabad, who vide judgment dated 11.10.2012 convicted him for the offences under Sections 420, 468 and 471 IPC and vide order dated 12.10.2012, he was sentenced as under:

Offence under Section	Sentence Awarded
Section 420 IPC.	Rigorous imprisonment for a period

	of three years and to pay a fine of Rs.10,000/- and in default thereof, to further undergo rigorous imprisonment for a period of six months.
Section 468 IPC.	Rigorous imprisonment for a period of three years and to pay a fine of Rs.10,000/-and in default thereof, to further undergo rigorous imprisonment for a period of six months.
Section 471 IPC.	Rigorous imprisonment for a period of one year and to pay a fine of Rs.5,000/-and in default thereof, to further undergo rigorous imprisonment for a period of three months.

All the sentences were ordered to run concurrently.

Feeling aggrieved, the accused had filed an appeal in the Court of Sessions, which was however dismissed by learned Sessions Judge, Faehabad vide judgment 3.6.2014.

The accused – convict was dissatisfied with such judgment also and has preferred a revision petition before this Court praying that the same be accepted, the impugned judgment of his conviction and order of sentence passed by Chief Judicial Magistrate, Fatehabad and judgment in appeal passed by Sessions Judge, Fatehabad be set aside and he be acquitted of the charge framed against him.

Briefly stated, the facts of the case as per prosecution version are that General Manager, Haryana Roadways, Fatehabad addressed a written communication dated 16.11.2006 to SHO Police Station City, Fatehabad for taking action against Ashok Kumar, Driver No.184 stating therein that licence bearing no.A/75961/88 belonging to Ashok Kumar, Driver was got verified from Licensing and Registration Authority,

Bilaspur (H.P.), which vide letter No.2452 dated 20.7.2006 informed that such licence was not issued by that office, in that way licence was found to be fake, therefore necessary action be taken in the matter. On receipt of the communication, formal FIR No.89 dated 17.2.2007 for the offences under Sections 420, 467, 468 and 471 IPC was recorded. Thereafter, the matter was investigated. Statements of witnesses were recorded. Documents including driving licence of the accused were taken into possession. Accused was arrested in this case. After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court.

On presentation of challan in the Court of Chief Judicial Magistrate, Fatehabad, copies of documents relied upon in the challan were supplied to the accused free of costs as provided under Section 207 Cr.P.C.

Learned Chief Judicial Magistrate, Fatehabad finding that charge for offences under Sections 420, 468 and 471 IPC was disclosed against the accused, charge-sheeted him accordingly, to which, he pleaded not guilty and claimed trial. The case was then fixed for evidence of prosecution.

To bring home guilt to the accused, the prosecution examined as many as four witnesses as per details below:

PW1 Head Constable Baldev Singh, who was member of the police party headed by SI Nihal Singh on 2.5.2007, which had arrested the accused and who had produced licence Ex.P1 & P2, which had been taken into police possession deposed in that regard.

PW2 Sh.Munish Nagpal, Regional Transport Authority, Sirsa deposed that on 16.11.2006 while he was working as General Manager, Haryana Roadways, Fatehabad, the accused was working as a driver there; that the Licensing and Registration Authority, Bilaspur (H.P.) vide letter No.2452 dated 20.7.2006 had informed that the driving licence in the name of Ashok Kumar was not issued by their office; that thereafter he had submitted a complaint Ex.PB to Station House Officer, Police Station City, Fatehabad.

PW3 Hawa Singh, Clerk deposed that he was posted in Fatehabad depot from the year 1994 to 2007 and the police had taken photocopies of documents Ex.P3 to Ex.P7 from him. He had brought the original record.

PW4 Harpal Singh, Clerk had brought the document pertaining to driving licence of accused Ashok Kumar and proved application Ex.PW4/A and photocopy of licence as Ex.PW4/B.

Since the prosecution failed to conclude its evidence despite availing ample opportunities, the same was closed by Court order.

Statement of accused was recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against him were put to him but he denied the allegations contending that he is innocent and had been falsely involved in this case.

Accused did not lead any evidence in defence.

After hearing arguments, learned Chief Judicial Magistrate, Fatehabad convicted and sentenced accused Ashok Kumar as mentioned supra.

I have heard learned counsel for the petitioner-accused-convict and learned Assistant Advocate General for the State of Haryana besides going through the record and I find that there is no merit in the revision petition.

The prosecution by bringing enough cogent and convincing evidence on record has been able to prove that the accused got employment in Haryana Roadways as a driver on the basis of forged driving licence. Since the licence purported to have been issued by Licensing and Registration Authority, Bilaspur (H.P.), the said office was contacted by the office of Haryana Roadways, Fatehabad Depot and it was informed that the licence had not been issued from the said office, which goes to show that it was a forged and fabricated document. The accused had obtained employment as driver in Haryana Roadways by the submission of that driving licence; in that way, he had obviously cheated the said department/wing of the Government and had further indulged in forgery and fabrication of the driving licence. Since it was the accused who had produced the forged driving licence and was the beneficiary thereof, it is to be taken that it was he, who had forged and fabricated the driving licence and then used it as genuine one having full knowledge that it was forged and fabricated one.

Learned counsel for the petitioner has raised certain contentions, first being that no official from the office of the Licensing and Registration Authority, Bilaspur (H.P.) has been examined. But as has been brought to my notice by the State counsel, reply has been received from that office to the effect that the licence had not been issued

by the office in question. The said reply was proved in evidence by the prosecution. It being official communication is not open to any doubt and rather it comes out that the licence in question was not genuine. When the employment of accused being in danger and prospects of his being put behind the bars staring him in his eyes, nothing prevented the accused to summon record from the office concerned to show that licence was genuine and had been issued from their office. But for some strange reasons he kept quiet and did not take any such action. The prosecution case can certainly be not condemned for non-examination of any official from the office of Licensing and Registration Authority, Bilaspur (H.P.).

Another argument put forward by learned counsel for the revision petitioner is that Investigating Officer in this case has not been examined, which affects the merits of the case. But I find that this argument by learned counsel lacks any credibility for various reasons, firstly the evidence of the prosecution had been closed by the Court order, secondly, the case is merely based upon documentary evidence and testimony of the Investigating Officer would not have added any additional strength.

The third argument of learned counsel for the petitioner was that only photocopies of the documents had been proved in evidence by the prosecution and not the original ones. Again this argument is devoid of merit. The copies of documents were produced in evidence by PW3 Hawa Singh, Clerk, who had brought the original record proving photocopies of the documents as Ex.P3 to Ex.P7, therefore the prosecution case cannot be condemned for the said reason.

Learned counsel for the revision petitioner referred to citation **Vijender Versus State of Delhi, 1997(2) R.C.R. 256** by the Apex Court but facts of that case were entirely different. It was a murder case based upon circumstantial evidence where the doctor who had performed the post-mortem examination had not been examined. Whereas facts and nature of the case in hand are entirely different. I failed to understand as to what benefit the counsel wants to draw from this judgment.

He has further referred to an authority **Dharampal Versus State of Haryana, 1999(2), Criminal Courts Judgments 364** by a Coordinate Bench of which Court, which was a case where petitioner was found guilty of travelling in a bus on a bogus bus pass. Considering that petitioner was a first offender and had suffered agony of criminal proceedings of nine years, benefit of probation was granted to him. Here the facts of the case are entirely different. The accused had procured employment as a driver by submitting a fake driving licence not only cheating the department but by putting the lives of several innocent persons in great risk by driving on the basis of a licence, which was not genuine. The petitioner does not deserve any leniency regarding sentence part also.

In view of the above, I find no illegality or infirmity in the judgments passed by the Courts below, as regards the conviction and sentence part, those are upheld and revision is found to be without any merit and is dismissed accordingly.

Ashok Kumar – petitioner/accused is stated to be on bail granted to him by this Court while suspending his sentence. His bail is

cancelled. Chief Judicial Magistrate, Fatehabad is directed to issue arrest warrant to get him arrested so as to make him undergo the remaining sentence.

4.12.2017
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No