

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

(1) **CRR-3335-2017**
Date of decision:-29.1.2018

Anik Bansal
...Petitioner

Versus

State of Haryana
...Respondent

(2) **CRR-3556-2017**
Vinkal Arora
...Petitioner

Versus

State of Haryana
...Respondent

(3) **CRR-3597-2017**
Anurag Chadda
...Petitioner

Versus

State of Haryana
...Respondent

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

Present : Mr.Bipan Ghai, Senior Advocate with
Mr.Paras Talwar, Advocate
for the petitioner in **CRR-3335-2017.**

Mr.K.D.S. Sidhu, Advocate
for the petitioner in CRR-3556-2017.

Mr.Karan Singh, Advocate
for the petitioner in CRR-3597-2017.

Mr.Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J.

Vide this judgment, I propose to dispose of three criminal revisions i.e. **CRR-3335-2017** filed by petitioner Anik Bansal, CRR-3556-2017 filed by petitioner Vinkal Arora and CRR-3597-2017 filed by petitioner Anurag Chadda.

These revision petitions are directed against the judgment dated 5.9.2017 passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri vide which the judgment dated 21.2.2015 passed by learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri convicting accused for offences under Sections 468, 471, 506 read with Section 120-B IPC and order dated 23.2.2015 sentencing them for those offence were upheld, whereas the appeals filed by accused-convicts were dismissed.

Learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri had sentenced the accused as under:

Offence under Section	Sentence Awarded
Section 468 IPC.	Simple imprisonment for a period of two years and to pay a fine of Rs.2,000/- each.
Section 471 IPC.	Simple imprisonment for a period of six months each.
Section 506 IPC.	Simple imprisonment for a period of six months each.
Section 120-B IPC.	Simple imprisonment for a period of three months each.

All the substantive sentences were ordered to run concurrently.

The accused-convicts, who are petitioners before this Court

pray that the revision petitions be accepted, the impugned judgment of their conviction and order of sentence passed by Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri and judgment in appeal passed by Additional Sessions Judge, Yamuna Nagar at Jagadhri be set aside and they be acquitted of the charge framed against them.

Briefly stated, the facts of the case as per prosecution story are that criminal machinery was set into motion by complainant Ajay Kumar, who in a written complaint submitted to the police had alleged that he has been running a shop under the name and style of Jaiswal Gift Centre dealing with mobile phones and recharge coupons; that he had received a telephonic call from Gandhi Nagar, Police Station to the effect that he had issued several Airtel sim cards on forged ID proofs but he denied having done so; that subsequently it came out that Vinkal Proprietor of Sunny communication had prepared a forged stamp of shop of complainant and issued several Airtel sim cards. After registration of the formal FIR, the matter was investigated. Prima facie involvement of Vinkal Arora, Anik Bansal and Anurag Chadda in the scam was found to be there. They were arrested and later on released on bail.

After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court of Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri.

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

Finding that charge for offences under Sections 420, 468, 471, 506, 120-B IPC was disclosed against the accused, they were charge-sheeted accordingly, to which, they 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 twelve witnesses i.e. PW1 Nonesh, PW2 Ajay Kumar, PW3 EASI Ragubir Singh, PW4 MASI Dharam Singh, PW5 Constable Anil Kumar, PW6 ASI Balraj Singh, PW7 HC Dal Singh, PW8 EHC Jai Pal, PW9 Dr.Kanta Malik, PW10 Sumant Aggarwal, Nodal Officer, PW11 Gajender Kumar and PW12 Vinod Kumar besides tendering some documents.

With that the prosecution evidence stood closed.

Statements of accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against them were put to such accused but they denied the same contending that they are innocent and have been falsely involved in this case.

In defence evidence, the accused examined Nikhil Goyal as DW1.

After hearing arguments, learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri acquitted all the accused for the offence under Section 420 IPC and convicted and sentenced them as mentioned supra. The appeals preferred against the judgment of conviction and order of sentence passed by the Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri were also decided against the accused by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri, which left petitioners aggrieved and they have filed the present revision

petitions.

Here as per prosecution story, the accused had misused the ID of Nonesh besides using forged stamp on that ID while issuing Sim bearing number 9896150985.

Nonesh appearing as PW1 has specifically stated that he had taken Sim No.9896565524 and Sim bearing number 9896150985 was not issued on his ID. The case of the prosecution is that Sim bearing number 9896150985 was got issued on the ID of Nonesh by the accused who had misused the said ID of Nonesh.

PW6 ASI Balraj Singh has proved the disclosure statement of accused Vinkal and Anik Bansal Ex.PW6/E and PW6/D, respectively. ASI Balraj Singh has deposed that earlier, accused Vinkal, Anik Bansal and Anurag Chadda had resiled from their previous disclosure statements which are exhibited as PW6/A to PW6/C and thereafter second disclosure statements of accused Vinkal and Anik Bansal were recorded, in terms of which accused Anik Bansal (Ex.PW6/D) had admitted that accused Vinkal Arora had put the signature of Nonesh on the form and ID and after that, he put the stamp of Balaji Televenture and Parveen Electronics, Lajpat Nagar, Yamuna Nagar over it and he could get the said stamps recovered which were used on the form and ID of Nonesh, and then he got recovered stamps with wording Balaji Televenture and Parveen Electronics. As recovery had been effected on the basis of disclosure statement of Anik Bansal, the same is admissible under Section 27 of Indian Evidence Act.

Accused Vinkal Arora had mentioned in his disclosure statement that he had torn up the application form of Nonesh son of Shri

Devi Singh and then filled up the Form of Nonesh in his own handwriting and himself put the signature of Nonesh on the said form; thereafter, he took the photograph of Nonesh from his mobile camera and affixed the stamp of Sunny Communication; thereafter, stamp of Sunny communication and said mobile phone were recovered on the basis of disclosure statement of accused Vinkal. Therefore, said recovery is also admissible under Section 27 of Indian Evidence Act.

In order to prove that accused had put forged signature of Nonesh as well as stamp over the Air Tel prepaid enrollment form, the prosecution has examined PW9 Doctor Kanta Malik Assistant Director FSL Madhuban, who tendered her report PW9/H, Original Air Tel prepaid enrollment form of Sim bearing number 9896150985, copy of ration card bearing signature of Nonesh along with stamp, Secondary School Examination Certificate bearing signature of Nonesh, Original Air tel prepaid enrollment form of Sim bearing number 9896565524, copy of educational certificate, sample of Stamp of Sunny Communication, Balaji Televenture and Parveen Electronics, sample of signature of Nonesh written by Vinkal Arora, Nonesh, Anik Bansal and Anurag Chadda were sent to FSL Madhuban to find out whether accused had forged the signature of Nonesh on the Airtel prepaid enrollment form and also used stamp over it. A perusal of FSL report shows that stamp of Sunny Communication, Bala Ji Televenture and Parveen Electronics, which were recovered on the basis of disclosure statement of accused, tally in design, size and relative location of corresponding character and also Superimpose each other. It is also mentioned in the said report that who wrote red enclosed signature

stamp and marked S1 to S5 (sample signature of Nonesh) did not write the red enclosed signature similarly stamp and marked Q9 to Q11 (Signature over original Air-tel prepaid enrollment form, copy of ration card and secondary school certificate). It is also mentioned therein that a person who wrote red enclosed writing stamp and marked S12 to S14 (sample writing by accused Anurag Chadda) also wrote red enclosed signature similarly stamp and marked Q9 to Q11 (Signature over original Airtel prepaid enrollment form of sim bearing no. 9896150985, copy of ration card and secondary school certificate). Therefore, it comes out that accused Anurag Chadda had put the signature of Nonesh over the original Air Tel Prepaid Enrollment form of Sim bearing number 9896150985 and other disputed documents.

PW5 HC Anil Kumar proved the recovery memo of computerized list of Mobile number 9896451129 as PW5/A, which shows that Sim bearing number 9896150985 was activated by the mobile number 9896451129 and said number belonged to accused Anurag Chadda. A list of activated number from mobile number 9896451129 was also placed on file and in fifth number, mobile number 9896150985 was specifically mentioned. It means accused Anurag Chadda activated the sim bearing number 9896150985 from his own mobile number 9896451129 showing that he was in conspiracy with co-accused Vinkal and Anik Bansal in the commission of offence.

It stands proved on the record that the accused committed forgery to cheat Nonesh. Accused had the sufficient knowledge that Airtel prepaid enrollment form was a forged document but they used it as a genuine and sim bearing no. 9896150985 was issued on it. As such,

offences under Sections 468 and 471 of IPC were committed by all the three accused and in conspiracy with each other inasmuch as they forged the signature of Nonesh and put stamp over it and after that Anurag Chadha has activated the sim bearing number 9896150985.

As regards the contention of learned defence counsel now put forward in arguments, those have been dealt with in detail by the trial Court and it is relevant to reproduce the same, which is as under:

“Learned counsel for the accused has argued that prosecution has failed to produce the original document on the case file and produce only photocopy and therefore, it is a lacuna on the part of the prosecution and accused cannot be convicted on the basis of photocopy document and place reliance on Gurcharan Singh Versus State of Punjab 2014 (5) RCR(Criminal)572. On the other side learned APP for the State has argued that prosecution has produced original Airtel prepaid enrollment form on the case file on which accused has put forged signature and stamp and sim was issued on that basis, therefore, prosecution has duly proved his case. From the perusal of the file it is clear that prosecution has produced the original Airtel prepaid enrollment form on which accused put forged signature of Nonesh. On the other side, Nonesh himself admitted that he has given photocopy of ration card and secondary school certificate and received sim bearing no.9896565524. Prosecution has produced the said copy of documents along with FSL report. Hence, plea of defence counsel regarding photocopy of document is not maintainable as

prosecution has produced original Airtel prepaid enrollment form along with other relevant documents.

Learned counsel for the accused has argued that complainant has mentioned only one of the name of accused and therefore, other accused cannot be liable for it and place reliance on Udey Shankar Rao and another Versus Amarendra Kumar Dutta 2014 (4) RCR Criminal (908). On this point, Learned APP for the State has argued that all three accused committed offence in a criminal conspiracy and therefore, all are liable for it. In the present case, stamps were recovered on the basis of disclosure statement of accused Vinkal and Anik Bansal. Forged signature of Nonesh was matched with sample signature of accused Anurag Chadda. It is also proved that Sim bearing number 9896150985 was activated by the accused Anurag Chadda from his mobile. It means all three accused are acted in a criminal conspiracy and therefore, all are liable for it.

In the instant case prosecution has alleged that accused has forged the signature of Nonesh and issued Sim bearing Number 9896150985 and activated it. Prosecution has duly proved that accused has used forged signature of Nonesh and put stamp over the Airtel prepaid Enrollment Form and issued Sim bearing number 9896150985. Hence, it is proved that accused has forged and cheated the Nonesh and used the forged signature as a genuine. Hence, the prosecution has proved its case against the accused.

I have heard learned counsel for the petitioners-accused-

convicts 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 petitions.

It is well settled law that the revisional jurisdiction of this Court is quite limited. This Court is to interfere only if there is an illegality or infirmity apparent on the face of the judgment/order passed by a Court below or the same is perverse. Merely because another view in the matter is possible, no inference with such judgment is to be done.

The judgments passed by the Courts below are well reasoned ones, based upon proper appraisal and appreciation of evidence and correct interpretation of law. There is no illegality or infirmity therein. The contentions put forward by learned counsel for the petitioners that the original documents had not been placed on the file and only photocopies were relied upon have been dealt with at length by the Courts below.

As regards the contention that requirement under Section 65-B are not satisfied therefore electronic record could not be admitted in evidence and authority cited in support thereof **Anvar P.V. Versus P.K. Basheer and others, 2015 AIR(SC) 180** by the Apex Court, the contention lacks merit since the Courts below have not based findings on such record exclusively, but on oral as well as other documentary evidence as well, which by itself is sufficient to prove the charge against the accused.

Keeping in view the gravity of offence, no ground is made out to reduce the sentence.

The judgments passed by the Courts below are upheld,

CRR-3335-2017;
CRR-3556-2017 &
CRR-3597-2017

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whereas revision petitions are found to be without any merit and the same are dismissed accordingly.

Necessary information be sent to the quarter concerned.

29.1.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No