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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 17.01.2025*+ **CRL.REV.P. 941/2017**

STATE OF NCT OF DELHI

.....Petitioner

Through: Mr. Naresh Kumar Chahar,
APP for the State, with SI
Vipin Kumar, P.S. IGI Airport
Delhi.

versus

ANCHIT SURI

.....Respondent

Through: Mr. B. S. Jakhar, Mr. Vikram
Singh, Mr. Jakhar, Ms.
Bhawna Jakhar, Mr. Neeraj
Jakhar, Mr. Viraj Rathee and
Mr. Anup Mishra Advocates.

CORAM:**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J**

1. The instant petition under Section 397 read with Section 482 of Code of Criminal Procedure, 1973 (hereafter '*Cr.P.C.*') has been filed on behalf of the State assailing the order dated 20.09.2017 passed by Additional Sessions Judge-04, Patiala House Courts, New Delhi (hereafter '*Sessions Court*') in Cr. Revision 941/2017.

2. Briefly stated, the facts of the present case are that FIR No. 24/2017 was registered at Police Station IGI Airport, Delhi, against the respondent, Anchit Suri, for the commission of offences



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punishable under Sections 420/468/471 of the Indian Penal Code, 1860 (hereafter '*IPC*'), based on a complaint filed by Sh. R.K. Ahir, Manager Security, Air India Pvt. Ltd. As per the complainant, the respondent had presented an alleged fake United Nations Laissez- Passer (hereafter '*UN passport*') to Ms. Magdalena Kropatschek, the Airline Liaison Officer (hereafter '*ALO*') of the Austrian Embassy. It is alleged that while the respondent was traveling to Frankfurt on a valid Indian passport with a valid visa, he had approached the Air India counter at IGI Airport and contacted Ms. Kropatschek, seeking information about a separate counter for diplomats. Ms. Kropatschek had informed him that there was no dedicated counter for diplomats and had inquired about his travel plans, asking him to show his passport. The respondent had then handed over the alleged UN passport to her, along with his valid Indian passport, which had a valid Schengen visa as well as valid German, Canadian, and U.S. visas. Ms. Kropatschek had begun examining the UN passport, during which the respondent had allegedly tried to retrieve the document from her, but had failed to do so. Despite this, the respondent was issued a boarding pass, as he possessed a valid Indian passport with the necessary visas. However, Ms. Kropatschek, suspecting the UN passport to be fake, had reported the matter to the complainant, Sh. R.K. Ahir, Manager Security, Air India, who had subsequently handed over the respondent to the police. During interrogation, the respondent had disclosed that he was studying in Canada and had obtained the fake UN passport from a friend, Jual Minah, who was also studying with him at the University of



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Waterloo, Canada. According to the respondent, the document was prepared by his friend "for fun" and handed over to him, and he believed it to be genuine. The respondent further claimed that he had kept the document in his possession and that, during his time in Canada, he had visited a few UN offices to deliver lectures.

3. After completion of investigation, the chargesheet in this case was filed for offences under Sections 420/468/471 of IPC. The learned Additional Chief Metropolitan Magistrate-01, New Delhi, Patiala House Court (hereafter 'ACMM') found it a fit case for framing charges against the accused under Sections 420/468/471 of IPC. The relevant extract of order dated 06.09.2017 passed by the learned ACMM reads as under:

“ In the instant case accused Anchit Suri was apprehended on the complaint of Sh. R.K Ahir, Manager Security, Air India Pvt Ltd, who as per him had shown his UN Laissez Passer to ALO Austrain Embassy, Ms. Magdalena Kropatschek. It is categorically stated by Sh. R.K Ahir in his statement recorded U/Sec. 161 Cr.P.C that accused was in possession of fake UN Laissez Passer and he used the same at the time of travelling to Frankfurt. In the letter dated 12.04.2017 received from the United Nation they are not able to provide satisfactory response but stated that the number of Laissez Passer of the accused is not in the sequence of numbers of the other passport in their database. Even name of the accused is not present in their database. From the said response it cannot be said that UN Laissez Passer possessed by accused was genuine.

In my considered view there is sufficient evidence on record which gives rise to grave suspicion against accused for the commission of the offence. Accordingly, he is liable to face trial for the offence punishable U/Sec.420/468/471 IPG.

Put up for framing of charge on 09.10.2017”

4. However, in the revision petition preferred by the respondent,



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the learned Sessions Court discharged the accused/respondent herein *vide* impugned order dated 20.09.2017. The relevant portion of the order is set out below:

“17. In the present case, it is not the dispute that the petitioner was having a valid Indian passport with a valid Visa. Petitioner is stated to be frequent traveller to Canada, US, Germany and various other European countries with a valid Visa. Petitioner is stated to be an educated person, an Engineer, working in Canada. There is no forgery with respect to the Indian passport or Visa and he had not used fake UN passport in obtaining valid Indian passport or Visa from various countries. The allegations against him is that upon his asking about counter for diplomats, the ALO of Republic of Austria refused. It is seen that even as per the alleged UN passport the only use which is stated in the said passport was that there is request mentioned on behalf of United Nations that holder of the said passport should be permitted in the immigration for so as not to cause delay. The benefit or gain by showing diplomat passport which the petitioner could have received was at the most not standing in the queue or being allowed to sit in VIP lounge to have coffee. In these circumstances, I fail to understand as to who was cheated and what loss was caused to Air India officials in allowing the petitioner to jump the queue which is so insignificant as to come in the definition of valuable security or damage or injury to the public body, mind or reputation. However, the most important aspect in the whole case is the investigation regarding forgery or the alleged fake V. diplomatic passport. It is seen that the IO had to collect evidence including the expert opinion which could have established the alleged passport was fake. In the present case, no expert opinion has been obtained. The opinion which has been sought from UN is the photocopy of the letter which seems to be an electronic e-mail addressed to one Anil Kumar Sharma, Section Officer in Ministry of External Affairs, which has been sent by United Nations Development Programme (UNDP) but the said letter does not bear any signatures and also does not have name of any person who is author of the said letter. It says that UNDP office is unable to provide definitive response in the absence of clear coloured copy. However, said letter further states that name of the petitioner is not in their data base.

18. There are number of problems in this letter. It is seen that there is no name or signature of the person who has sent said



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information. The said letter categorically states that office is unable to provide definitive response on the said passport to be fake or not. It states that name of petitioner is not present in their data base but it does not say that said name of petitioner was never in their present data base. Even otherwise, there is no certificate u/s 65-B of Indian Evidence Act with respect to the said evidence even if it is considered as an expert opinion.

19 . In case of Jibrial Diwan vs. State of Maharashtra, AIR 1997 Supreme Court 3424, the Hon'ble Apex Court has observed as under:

“3. It bears repetition that the appellant was not the forger of those documents. Section 471 enjoins that whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document shall be punished in the same manner as if he had forged such document. Section 465 provides that whoever commits forgery, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Now the words 'dishonestly' and 'fraudulently' have been defined respectively in Section 24 and 25 of the Indian Penal Code. 'Dishonestly' has been defined to mean that whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing 'dishonestly'. The word 'fraudulently' has been defined to mean that a person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise. This court in Dr. S. Dutt vs. State of U.P., AIR 1966 SC 523, has explained the words 'intent to defraud' as being not synonymous with the words 'intent to deceive'. It requires some action resulting in a disadvantage which does for the deception the person defrauded / would have avoided. Here by the delivery of forged letters, there is neither any wrongful gain to anyone nor any wrongful loss to another. The act of the appellant could not thus be termed to have been done dishonestly. Likewise the appellant cannot be said to have any intention to defraud because his action resulted in no disadvantage to any one which but for the deception the person defrauded would have acted otherwise. The basic ingredients of the act done 'dishonestly' or 'fraudulently' being 'missing' the charge under Section 471 read with 465 IPC was totally misplaced and the High Court fell into an error in convicting the appellant on those charges.”



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20. In the present case, it is seen that prosecution is unable to establish that petitioner has committed any forgery. It is also seen that there is sanction by Central Government under the provisions of Section 188 of Cr.PC as it was considered that the fake UN passport was prepared in Canada. The sanction was duly granted by central government but the 10 did not make any effort to arrest said Jual Minah who was friend of the petitioner alleged to have prepared the said passport whose name cropped up in the disclosure statement of petitioner. 10 did not seize any printer, laptop or computer from which alleged passport was prepared. The disclosure statement of petitioner is not inadmissible being hit by Section 25 of Indian Evidence Act. There is no witness had sent the UN letter. The Section Officer who is recipient of the letter cannot prove the photocopy of this letter as per Indian Evidence Act and therefore, the prosecution could not bring any admissible evidence against the accused (petitioner herein) to show that the document was fake so as to raise grave suspicion for framing of charge.

21. Considering the aforesaid facts and circumstances of the case applying the relevant law as laid down in the judgments discussed above, I am of the considered opinion that there is no legally admissible material on record to connect the petitioner for his carrying fake UN passport for the purpose of cheating. Hence, impugned order dated 06.09.2017 is set aside. Revision petition is allowed.”

5. The State has, by way of present petition, challenged the impugned order before this Court. The learned APP appearing for the State argues that the impugned order passed by the learned Sessions Court is not sustainable in the eyes of the law, and the same is based on imagination, presumption, conjectures and surmises and as such, cannot stand the scrutiny of law. It is contended that the learned Sessions Court has failed to appreciate that the accused was in possession of a fake diplomatic passport with his photograph and other particulars, and the accused, while asking for a counter for diplomats, had produced a fake diplomatic passport to the ALO. It is



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also stated that the learned Sessions Court failed to appreciate that the incident was captured in the CCTV and the footage of the same is a part of the record supported by a Certificate under Section 65B of the Indian Evidence Act. It is also stated that the learned Sessions Court has failed to appreciate the verification report issued by the United Nations Special Agency. It is argued that the learned Sessions Court has failed to appreciate the better proposition of law that at the stage of framing of charge, if two views are possible, the one favouring the prosecution should be adopted. Further, at the stage of framing of charge, the evidence does not have to be analysed in great detail to find out if the accused can be held guilty for the offence, but only a *prima facie* case against the accused has to be seen. It is further stated that the learned Sessions Court wrongly set aside the order of the learned ACMM. Therefore, it is prayed by the learned APP for the State that the impugned order be set aside and the present petition be allowed.

6. On the other hand, the learned counsel appearing for the respondent has argued that learned Sessions Court has rightly passed the impugned order after considering the entire material placed on record. The learned counsel has drawn attention of this Court to the communication of ALO, Republic of Austria to whom the accused had allegedly approached at Air India counter, who had suspected the said UN passport shown by the accused to her to be fake. However, the said communication does not bear her signatures and the Investigating Officer has verified that her statement under Section



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161 of Cr.P.C. has not been recorded. The learned counsel for the respondent also argues that the respondent, being a student, had used the alleged passport issued by the United Nations merely for fun. He further submitted that the respondent was a frequent traveler to several countries and had no malafide intention to use the said passport, as he already possessed a valid passport and visa. Therefore, it is prayed that the present petition be dismissed and the impugned order be upheld.

7. This Court has **heard** arguments addressed on behalf of both the parties, and has perused material on record.

8. The allegations against the accused/respondent, in brief, are that he had presented an alleged fake UN passport to Ms. Magdalena Kropatschek, the ALO of Austrian Embassy, while traveling to Frankfurt on a valid Indian passport and visa. When Ms. Kropatschek had suspected the document to be fake, the matter was reported to Air India Security, and the respondent was handed over to the police. During interrogation, the respondent had disclosed that he had obtained the fake document from a friend in Canada, who had created it “for fun”, and claimed that he had believed it to be genuine.

9. The learned counsel for the respondent/accused has argued that the respondent had obtained or fabricated this passport for fun, which in itself *prima facie* establishes that he was in possession of the said UN passport, which was not genuine. The learned counsel for the respondent also argued that the offence lacks seriousness, as no one was cheated and the accused had traveled on the basis of a valid



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passport and not the allegedly fabricated passport purportedly issued by the United Nations. This Court, however, finds this contention devoid of any merit. The admission by the learned counsel that the alleged passport, purportedly issued by the United Nations, was obtained by the respondent “for fun” clearly *prima-facie* establishes that the respondent was in possession of the said passport which was allegedly fake and fabricated.

10. Further, in this Court’s view, the findings of the learned Sessions Court are flawed and untenable, as they are based on an erroneous premise. The learned Sessions Court has proceeded on the assumption that, even if the respondent was in possession of a fake passport purportedly issued by the United Nations, the only possible benefit he could have derived was being allowed to sit in the VIP lounge and have coffee. Such reasoning trivializes the gravity of the offence. Even assuming, for argument’s sake, that the respondent’s actions were limited to such a minor benefit, the fact remains that the fabrication or possession of a forged document is a serious criminal offence. The charge-sheet records that the fake passport was handed over to the concerned Officer, posing it to be genuine for her to act on it. To dismiss the fabrication and possession of a fake passport as an act done merely “for fun” would clearly undermine the seriousness of the offence. Forging documents, particularly something as significant as a passport, raises critical concerns about national security. It cannot be viewed as a frivolous or inconsequential act, regardless of the respondent’s purported intentions.



11. Criminal jurisprudence operates on the premise that actions that compromise public trust in official documents and institutions must be dealt with firmly. To decriminalize such conduct by terming it playful or harmless intentions, would set a dangerous precedent, diluting the deterrent effect of the law. The learned Sessions Court's findings, therefore, fail to reflect the seriousness of the offence and its potential ramifications.

12. The learned counsel for the accused/respondent also contended that the witness who had seized the passport and to whom it had been handed over by the accused, has not been made party to the case and, therefore, the proceedings cannot result in conviction. This argument is unmerited, as the learned Magistrate has the discretion to summon such witnesses for their deposition at the appropriate stage of the trial if it is deemed necessary.

13. On the aspect of standard of proof at the stage of charge, the Hon'ble Supreme Court in *Bhawna Bai v. Ghanshyam*: (2020) 2 SCC 217 has observed as under:

"13. ...At the time of framing the charges, only prima facie case is to be seen; whether case is beyond reasonable doubt, is not to be seen at this stage. At the stage of framing the charge, the court has to see if there is sufficient ground for proceeding against the accused. **While evaluating the materials, strict standard of proof is not required; only prima facie case against the accused is to be seen.**"

(Emphasis added)

14. In *Manendra Prasad Tiwari v. Amit Kumar Tiwari*: 2022 SCC OnLine SC 1057, the Hon'ble Supreme Court, while explaining the well-settled law on exercise of powers under Section 397 and 482



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Cr.P.C., had observed as under:

“21. ...The truthfulness, the sufficiency and acceptability of the material produced at the time of framing of a charge can be done only at the stage of trial. To put it more succinctly, at the stage of charge the Court is to examine the materials only with a view to be satisfied that prima facie case of commission of offence alleged has been made out against the accused person...

22. ...At the stage of framing of a charge, the court is concerned not with the proof of the allegation rather it has to focus on the material and form an opinion whether there is strong suspicion that the accused has committed an offence, which if put to trial, could prove his guilt. The framing of charge is not a stage, at which stage the final test of guilt is to be applied. Thus, to hold that at the stage of framing the charge, the court should form an opinion that the accused is certainly guilty of committing an offence, is to hold something which is neither permissible nor is in consonance with the scheme of Code of Criminal Procedure...”

(Emphasis added)

15. Based on the material on record, this Court is of the view that sufficient grounds exist to frame charges against the accused, as the evidence suggests that the accused may have committed the alleged offence. However, it must be emphasized that a conviction requires the prosecution to prove its case beyond reasonable doubt that the accused is guilty of the offence, however, at the stage of framing charges, the Court does not delve into the probative value of the evidence on record. Nonetheless, it is incumbent upon the Court to apply its judicial mind to the available material and ensure that there is a plausible basis for concluding that the accused may have committed the alleged offence and a strong suspicion is sufficient to frame charge.



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16. In view of the foregoing discussion, this Court is inclined to allow the present petition. The impugned order dated 20.09.2017 passed by the learned Sessions Court is therefore set aside. Consequently, the order dated 06.09.2017 passed by the learned ACMM in this case is upheld.

17. Nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case.

18. Let a copy of this judgment be forwarded to the learned ACMM, who is directed to proceed with the case as per law.

19. In view of the above, the present revision petition stands disposed of.

20. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 17, 2025/A