
(2022) 09 TEL CK 0032

High Court For The State Of Telangana:: At Hyderabad

Case No: Criminal Revision Case .No. 3171 Of 2018

Zaffar Nawaz Khan

APPELLANT

Vs

State Of Telangana

RESPONDENT

Date of Decision: Sept. 5, 2022

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 397, 401
- Indian Penal Code, 1860 - Section 419, 420, 468, 471
- Passports Act, 1967 - Section 12(1)(a), 12(1)(b), 12(1)(d), 12(1)(e)

Hon'ble Judges: A.Santhosh Reddy, J

Bench: Single Bench

Advocate: C Sharan Reddy

Final Decision: Disposed Of

Judgement

1. This criminal revision case is directed under Sections 397 and 401 Cr.P.C. assailing the conviction and sentenced imposed in CrI.A.No.321 of 2015

dated 26.09.2018 on the file of VIII Additional Sessions Judge, Ranga Reddy District at L.B.Nagar partly confirming the conviction and sentence

imposed in C.C.No.819 of 2011 on the file of VIII Metropolitan Magistrate, Cyberabad.

2. Heard the learned counsel for the revision petitioner/A-1 and the learned Additional Public Prosecutor for the respondent/State. Perused the material on record.

3. The case of the prosecution is that the then Sub-Inspector of Police, B Section, Immigration Wing, RGI Airport, Shamshabad lodged a report on

18.09.2008 stating that the petitioner/A-1 arrived at RGI Airport by flight No.EK 524 from Dubai with passport bearing No.E-9432257 on the name of

passport holder Vajrapu Mahalakshman (A-3) and on verification it is found that the said passport was issued to A-3 on 23.08.2004 valid up to

22.08.2014.

4. It is further alleged that on verification of the same under UV lamp found that, there are no security features and upon questioning, the petitioner/A-

1 revealed his particulars and stated that in Dubai, he approached one Abdullah (A-2) and obtained forged passport by paying 4000 Dirhams and came

to India on the said fake passport. The S.I. of police seized the documents i.e. passport, original identity card of the petitioner/A-1 and produced him

before the Station House Officer, Shamshabad Police Station. On the basis of report, a case in crime No.355 of 2008 under Sections 419, 420, 468,

471 IPC and Sections 12 (1) (a) (b) (d) (e) of the Passports Act, 1967 (for short "the Act, 1967).

5. The investigating officer recorded the confession-cum-seizure panchanama of the petitioner/A-1 and seized forged passport and other travel

documents in the presence of mediators. After completion of investigation, the SI of police, RGI Airport filed charge sheet against A-1 to A-3 for the

aforesaid offences by showing A-2 and A-3 absconding.

6. In support of their case, the prosecution examined P.Ws.1 to 6 and marked Exs.P-1 to 10. The petitioner/A-1 did not adduce any oral or

documentary evidence.

7. On a consideration of the evidence on record, the learned Magistrate found the petitioner/A-1 guilty of the offences under Section 419 IPC and

Section 12 (1) (a) (b) and (d) of the Passports Act, 1967 and convicted him for the same and imposed the sentence of Simple imprisonment for three

months and to pay a fine of Rs.3,000/- for the offence under Section 419 IPC and to suffer Simple Imprisonment for a period of three months and to

pay fine of Rs.3,000/- for the offence under Section 12 (1) (a) (b) and (d) of the Passports Act, 1967. In default of payment of total fine of Rs.6,000/-

to suffer Simple Imprisonment for three months. Aggrieved by the same, the petitioner/A-1 preferred an appeal and the learned Sessions Judge by the

impugned judgment partly allowed the appeal and confirmed the conviction and sentence imposed in C.C.No.819 of 2011 dated 10.04.2011 by the trial

Court against the petitioner/A-1 for the offence punishable under Section 419 IPC and conviction and sentence recorded against him for the offence

under Section 12(1) (a) (b) (d) of the Passports Act, 1967, is set aside and the fine amount paid for the said offence, if any, should be refunded to him.

Feeling dissatisfied, the present revision is filed.

8. The learned counsel for the petitioner submits that the seizure of Exs.P.3 to P.5 documents from the petitioner/A-1 has not been proved by the

prosecution, since the mediators Pws.3 and 4 for seizure panchanama turned hostile and did not support the case of prosecution. He also submits that

there is no cogent evidence to convict the petitioner/A-1 for the offence under Section 419 IPC. Therefore, the Courts below erred in convicting the

petitioner and prayed to allow the revision.

9. Per contra, the learned Assistant Public Prosecutor for the respondent/State would submit that since the concurrent findings of both the Courts

below in convicting the petitioner/A-1 is based on cogent and convincing evidence, no interference is called for.

10. PW.1 is the Sub-Inspector of Police, PW.2 is the constable, PWs.3 and 4 are mediators, who were present at the time of seizure of passport and

other relevant documents. Pws.5 and 6 are the Investigating Officers.

11. P.W.1 testified to the fact that he was on duty at Immigration Court of Airport along with PW.2 and at that time the accused came from Dubai to

his counter for verification and on verification found that the passport was not having security features and on suspicion, he has taken his passport and

identity card and handed over to ACP, in-charge Immigration and found that the petitioner/A-1 was travelling in the name of passport of A-3 and that

the photograph on the passport was that of petitioner/A-1, but passport was in the name of A-3. PW.1 lodged Ex.P.1 report. PW.1 collected Exs.P.2

to 5 documents i.e. passport, arrival card, travel view trip and identity card of A-1. PW.2 corroborated the evidence of PW.1. It is the evidence of

PW.5 the SI of Police, RGI Airport that on the basis of Ex.P.1, he registered the case and in the presence of Pws.3 and 4 seized the passport and

other documents. However, the mediators Pws.3 and 4 did not support the case of prosecution. But there is other evidence on record to show that

Exs.P.2 to P.5 were seized from the petitioner/A-1. The evidence of PW.1 is corroborated the evidence of PW.2 and PW.5. The undiscredited

testimony of PWs.1, 2 and 5, therefore, clearly establish the fact that the Exs.P.2 to P.5 were seized at the instance of petitioner/A-1. Nothing

material was elicited to discredit their testimony.

12. The petitioner/A-1 has offered explanation whatsoever as to how his photograph came to be annexed in Ex.P.2 passport. However, PW.1 in

Ex.P.1 stated that the petitioner himself has stated that A-2 has taken Rs.4,000/- Dirhams and given fake passport Ex.P2 by affixing the photograph

of petitioner on the passport of A-3. It is, therefore, clear from the evidence on record that the petitioner/A-1 impersonated himself as Vajrapu

Mahalakshman (A-3) on the basis of Ex.P.2 forged passport. In view of the testimony of P.Ws.1, 2 and 5, which is not discredited in any manner, the

trial Court has rightly found the accused guilty of the offences under Sections 419 IPC and Sections 12 (1) (a) (b) (d) (e) of the Act, 1967.

13. However, the appellate Court on careful evaluation of evidence came to conclusion that the prosecution has not properly proved the sanction

proceedings Ex.P.10 were issued on proper application of mind and thereby, held that the conviction and sentence imposed against the petitioner/A-1

under Sections 12 (1) (a) (b) (d) of the Act, 1967 was set aside and confirmed the conviction and sentence of the petitioner/A-1 for the offence under

Section 419 IPC.

14. Since the testimony of Pws.1, PW.2 and Exs.P.2 to P.5 would establish the fact that Ex.P.2 passport was used by the petitioner/A-1

impersonating himself as Vajrapu Mahalakshman (A-3) and he undertook the travel, the conviction of the petitioner/A-1 for the offence under Section

419 IPC, as recorded by the trial Court and confirmed by the appellate Court, does not call for any interference by this Court, as the same is not

vitiating by any illegality or material irregularity leading to any miscarriage of justice.

15. Learned counsel for the petitioner/A-1 submits that the petitioner/A-1 already suffered incarceration for about one month in connection with this

case. Therefore, he prays to take lenient view.

16. What would now survive for consideration is, the question regarding adequacy or otherwise of the sentence imposed on the petitioner/A-1.

17. Having regard to the submissions made by learned counsel for the revision petitioner/A-1 and in the facts and circumstances of the case, I am of

the considered view that interest of justice would be adequately met by maintaining the conviction recorded against the petitioner/A-1 for the offence

under Section 419 IPC. The substantive sentence and imprisonment by the trial Court and confirmed by the appellate Court is reduced to the period of

imprisonment already undergone by him. The sentence of fine imposed on him for the said offence is not interfered with.

18. In the result, the Criminal Revision Case is disposed of confirming the conviction entered, but modifying the sentence as indicated above.