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Sh. Vijender Kumar Jaln Vs. State

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Court : Delhi

Decided On : Sep-28-2001

Reported in : 94(2001)DLT392

Judge : Mr. K.S. Gupta, J.

Acts : Indian Penal Code (IPC), 1860 - Sections 416, 419, 420, 463, 465 and 468; Passport Act, 1967 - Sections 12; Code of Criminal Procedure (CrPC) , 1973 - Sections 313

Appeal No. : Crl. Rev. No. 214/2001

Appellant : Sh. Vijender Kumar Jain

Respondent : State

Advocate for Pet/Ap. : Sh. K.B. Andley, Sr. Adv. and; Sh. Roopesh Sharma, Adv; Sh.

Disposition : Revision petition dismissed

Judgement :
ORDER

K.S. Gupta, J.

1. This revision petition is directed against the judgment dated 10th April 2001 of an Additional Sessions Judge dismissing Criminal Appeal No. 27/2000 filed by the petitioner-accused against the judgment and order dated 22nd April 1995 of a Metropolitan Magistrate convicting and sentencing him as under:-

Section 419 IPC - RI for six months andfine of Rs. 1,000/-. Indefault of payment offine to undergo SI forone month.Section 468 IPC - RI for six months andfine of Rs. 2,000/-. Indefault of payment offine to undergo SI for3 months.Section 12(b) - RI for 2 months and finePassport Act, 1967 of Rs. 1,000/-. Indefault of payment offine to undergo SI forone month.

2. Case of the prosecution, in brief, is that during search of residential premises of petitioner at 2294, Gali Pahar Wali, Dharampura by the officials of Directorate of Enforcement, one passport in the name of R.K. Gupta with photograph of petitioner on it was recovered together with foreign currency and gold. On investigation it was revealed that passport application and personal particular form in the name of R.K. Gupta were signed by the petitioner and the address of R.K. Gupta as given in said application was fictitious. Accordingly, chargesheet under sections 419, 420, 468 IPC and section 12, Passport Act, 1967 was submitted against the petitioner.

3. In support of case the prosecution examined 17 witnesses in all. Petitioner did not examine any witness in defense. Believing the prosecution witnesses the petitioner was convicted and sentenced in the manner stated above.

4. I have heard Sh. K.B. Andley for petitioner and Sh. A.K. Dutta for CBI.

5. At the outset it may be stated that in revisional jurisdiction the order of an inferior court can be interfered with only where there is no evidence to support the finding or where the finding arrived at is perverse or such as no reasonable person would have arrived at on the evidence adduced. The petitioner in his statement under section 313 Cr.P.C. has admitted of his house No. 2294, Gali Pahar Wali having been searched by the officials of Enforcement Directorate on 28th October 1987. However, it is denied by him that passport Ex. P-1 in the name of R.K. Gupta was recovered from there as alleged. From the statements of J.C. Mehta,

PW-1, R.K. Handu, PW-5, R.N. Madan, PW-6 who are officials of Enforcement Directorate and participated in house search coupled with statements of Nand Kumar Bageri, PW-2, Smt. Bimla Devi, PW-3, neighbours of petitioner, recovery of said passport Ex. P-1 from the house of petitioner stands proved beyond any shadow of doubt. It may only be noticed that petitioner has admitted his signature at points 'A' and 'B' on Panchnama Ex. PW1/A vide which Passport Ex. P-1 was seized by the officials of Directorate of Enforcement.

6. This brings me to the core issue if the application Ex. PW-7/A filed for obtaining passport together with personal particular form attached therewith, was signed by the petitioner-accused. This application Along with attached personal particular form and admitted and specimen signatures of the petitioner were sent to Government Examiner of Questioned Documents at Shimla. Questioned writings marked Q-1 to Q-5 on Ex. PW-7/A, Q-6 and Q-7 on personal particular form, Q-8 on Passport Ex. P-1 below the photograph at Page 3, specimen handwriting marked S-1 to S-9 and admitted writings A-1 to A-5 of the petitioner were examined by N.C. Sood, Deputy Government Examiner of Questioned Documents, PW-12. In his deposition PW-12 has opined that the person who wrote writings marked S-1 to S-9 and A-1 to A-4 also wrote the writings marked Q-4, Q-5, Q-7 and Q-8. Ex. PW12/B is the report prepared by PW-12 containing detailed reasons for arriving at this conclusion. Based on statement of PW-12 the trial court had rightly come to the conclusion that it was petitioner who had signed as R.K. Gupta on the application for obtaining passport Ex. PW-7/A. Taking note of statement of Dal Chand, Postman, PW-8 the trial court was also justified in recording the finding that no house bearing No. 2268 as noted in application Ex. PW-7/A, existed in Shadipur.

7. Offence under said section 419 provides for punishment for cheating by personation which has been defined in section 416 IPC. Section 416 says that a person is said to 'cheat by personation' if he cheats by pretending to be some other person or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is. Explanationn appended to this section further says that offence is committed whether the individual personated is a real or imaginary person. Since petitioner

knowingly personated as R.K. Gupta residing at non-existent house being No. 2268 at Shadipur in the application for obtaining passport Ex. PW-7/A as also in personal particular form attached therewith, he had committed offence under said section 419 as also 12(b) of the Passport Act. Further, section 463 IPC defines forgery and punishment there-for is provided in section 465 IPC. Punishment for forgery for the purpose of cheating for which the petitioner was convicted and sentenced, has been provided in section 468 IPC. There cannot be any manner of doubt that Passport is a property within the meaning of section 463. Since application Ex. PW-7/A and personal particular form attached therewith had been prepared falsely to cause the concerned Passport authority to issue passport which actually came to be issued as Ex. P-1, the petitioner had committed offence under section 468. Petitioner had, thus, been rightly convicted and sentenced for the said three offences.

8. Consequently, the revision petition is dismissed being without any merit.

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