

**Prem Chnad Vs. State of Rajasthan**

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**Court :** Rajasthan

**Decided On :** Aug-23-1985

**Reported in :** 1985(2)WLN677

**Judge :** Sobhag Mal Jain, J.

**Appeal No. :** S.B. Criminal Revision Petition No. 181 of 1984

**Appellant :** Prem Chnad

**Respondent :** State of Rajasthan

**Advocate for Pet/Ap. :** Shri. N. P. Gupta

**Judgement :**

**Sobhag Mal Jain, J.**

1. This revision is directed against the order of the Chief Judicial Magistrate, Chittorgarh dated the 24th April, 1984, framing charges against the petitioner for the offences under Section 419, 468 and 114 IPC.

2. A Criminal case No.29 of 1980 was pending in the court of Munsif Magistrate, Chhoti Sadari against several accused including Mst. Munni under Section 379 IPC. The accused Mst. Munni failed to appear in the court and her bail-bond was forfeited. On January 20, 1982, two applications were filed on her behalf (1) for the remission of penalty under Section 446 Cr. P.C. and (2) for granting her fresh bail.

The learned Munsif Magistrate accepted the application for fresh bail. Accordingly new bail bond was submitted on her behalf. These three documents, namely, the application for fresh bail, the application for remission of penalty and the bail bond bearing thumb marks purported to have been put by Mst. Munni. The surety bond was given by Jagdish, one of the co-accused in that case. The bail-bond and the surety bond were then attested by the Court. The prosecution case is that the thumb impressions on these three documents, which purport to be of Mst. Mudni were not put by Munni, but by Smt. Ganga, who is said to have personated for Mst. Munni. The petitioner was an advocate for the accused in that criminal case and it was he who presented the two applications and the bail-bond in the court on their behalf. It however, appears that on being objected by the Assistant Public Prosecutor, the learned Magistrate called Shri Gordhanlal Kumavat Advocate who belonged to Narani, the village of the accused. Shri Kumavat told that the woman who claimed to be Smt. Munni was Smt. Ganga, daughter of Chokha. On being asked by the Magistrate, the petitioner took the accused outside the court room and thereafter conveyed that Smt. Ganga has wrongly personated for Smt. Munni. All the three accused namely, Shrilal, Jagdish and Mst. Ganga were then taken into custody and sent to the Police. A First Information Report was also sent by the Munsif Magistrate to the Police Station, Chhoti Sadari on the same day, i.e. January 20, 1982. In this report besides the three aforesaid accused, the petitioner was also arraigned as an accused.

3. After investigation the Station House Officer, Chhoti Sadari filed a challan before the Chief Judicial Magistrate, Chittorgarh, against all the four accused including the petitioner for the offences under Sections 419 and 420 IPC. The learned Chief Judicial Magistrate, by the order dated the 24th April, 1984, framed charges against all for the offences under Section 419, 468 and 114 IPC. Aggrieved by this, the petitioner has come in revision before this Court.

4. Shri N. P. Gupta learned counsel for the petitioner has contended that the allegations made in the First Information Report do not make out any offence against the petitioner. The only allegation made against the petitioner in the First Information Report is that he presented the two applications and the bail bond in the court on behalf of Mst. Munni. Mr. Gupta has further submitted that there is no

allegation by the prosecution that the petitioner attested or verified the thumb impressions on the documents to be that of Mst. Munni. There is also no allegation that the petitioner identified Mst. Ganga as Mst. Munni before the Court.

5. I have gone through the report sent by the Munsif Magistrate, Chhoti Sadari to the Police station which was registered as a First Information Report in the case and I agree with submissions of the learned counsel for the petitioner that the offences under Sections 419, 468 and 114 IPC are not even prima-facie disclosed against the petitioner. The only part assigned to the accused in the entire transaction is that he presented the three documents in the court in the capacity of an Advocate for the accused. The question for consideration, therefore, is whether by presenting these documents the petitioner committed the offences under Sections 419, 468 and 114 IPC. Obviously lawyers do not know all their clients personally. They have no option but to proceed on the assumption that a litigant or an accused who has come to seek their help is a genuine person. There was nothing unusual for the petitioner in presenting the three documents on behalf of the accused. In the present case, Jagdish who stood surety for Mst. Munni also identified her and the petitioner had no reason to doubt that the woman who was posing as Smt. Munni was not in fact Munni but some imposter. It would not be out of place to note that the personal attendance of Munni had been dispensed with and the prosecution has placed no material to show that the petitioner knew Mst. Munni or Ganga from before. Thus there was no material on record to show that the petitioner intentionally facilitated the commission of the offence. In these circumstances I am of the view that no case against the accused for the offences under Sections 419, 468 read with Section 114 IPC is made out and it would be a sheer harassment of the petitioner if he is put to trial on the charges framed against him.

6. I, therefore, set aside the order of the Chief Judicial Magistrate dated the 24th April, 1984 and quash the charges framed against him.