



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE M.B. SNEHALATHA

WEDNESDAY, THE 15TH DAY OF JANUARY 2025 / 25TH POUSHA, 1946

CRL.REV.PET NO. 612 OF 2018

AGAINST THE JUDGMENT DATED 22.03.2018 IN Cr1.A NO.106 OF 2015 OF ADDITIONAL SESSIONS COURT, MANANTHAVADI ARISING OUT OF THE JUDGMENT DATED 08.10.2015 IN C.C.NO.582/2010 OF JUDICIAL MAGISTRATE OF FIRST CLASS -II, MANANTHAVADY

REVISION PETITIONER/APPELLANT/ACCUSED:

ABHIJIT GEORGE
AGED 28 YEARS
S/O GEORGE, PULANJIKKAL HOUSE, MANANTHAVADI,
KUZHINILAM PO, WAYANAD DISTRICT.

BY ADV SRI.SUNNY MATHEW

RESPONDENTS/COMPLAINANT:

- 1 ASSISTANT SUB INSPECTOR OF POLICE
MANANTHAVADI POLICE STATION, WAYANAD DISTRICT.
PIN - 673 001
- 2 STATE OF KERALA
(RESPONDENTS 1 AND 2 REPRESENTED BY THE PUBLIC
PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM.

BY SRI.SANAL P.RAJ-PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR HEARING ON 4.12.2024, THE COURT ON 15.01.2025 DELIVERED THE FOLLOWING:

**CR****M.B.SNEHALATHA, J**

Crl.R.P.No.612 of 2018

Dated this the 15th day of January, 2025**ORDER**

Revision Petitioner is the accused in C.C.No.582/2010 on the file of Judicial First Class Magistrate Court II, Mananthavady and he is the appellant in Crl.A.No.106/2015 of the Sessions Court, Wayanad. In this revision, he calls in question the conviction and sentence against him for the offence punishable under Section 471 IPC.

2. In brief prosecution case is that on 1.6.2010 at around 12.15 pm. near Government High School at Mananthavady while the Sub Inspector of Police, Mananthavady intercepted the autorickshaw bearing registration No.KL-12E/3409, for vehicle checking, A1 who was the driver of the said autorickshaw produced a forged driving licence in his name as genuine. As per the prosecution case, it was A2 to A7 who aided A1 in forging the driving licence. Accused 1 to 7



thereby committed offences punishable under Sections 468 and 471 IPC.

3. During trial, A7 died and the charge against him abated. After trial, the learned Magistrate found A2 to A6 not guilty and acquitted them under Section 248(1) of Cr.P.C. A1/revision petitioner herein was found guilty of the offence punishable under Section 471 IPC and he was convicted and sentenced to undergo simple imprisonment for one year and to pay a fine of ₹3,000/- with default custodial sentence of one month. A1 was found not guilty under Section 468 IPC and was acquitted of the said offence. The conviction and sentence against the revision petitioner for the offence under Section 471 IPC was confirmed by the Sessions Court in Criminal Appeal No.106/2015.

4. Assailing the conviction and sentence, the revision petitioner/A1 preferred this revision contending that the learned Magistrate and the learned Sessions Judge failed to analyse the evidence in its correct perspective; that there is no evidence to show that the revision petitioner/A1 forged any driving licence and used it as genuine and therefore, the trial court and the appellate court went wrong in convicting the 1st accused.



5. Per contra, the learned Public Prosecutor supported the findings of the learned Magistrate and the learned Sessions Judge and contended that there is ample evidence to prove that the accused was in possession of a forged driving licence and he used the same as genuine; that the prosecution could establish the ingredients of the offence under Section 471 IPC and there are no reasons at all to interfere with the finding of conviction and sentence against A1.

6. The point for consideration in this revision is whether the impugned judgment of conviction and sentence against the revision petitioner/A1 warrants any interference by this Court.

7. PW6, the then Sub Inspector of Police, Mananthavady is the detecting officer. He testified that on 1.6.2010, while he along with his police party conducted the vehicle checking near Government High School, Mananthavady and when they intercepted the autorickshaw bearing No. KL-12E/3409 driven by A1 and asked A1 to show the driving licence for verification, A1 produced Ext.P1 fake driving licence. According to PW6, A1 was an accused in another crime namely Crime No.273/2010 of Mananthavady Police Station and during the investigation of the said case, it was revealed



that A1 had no driving licence and therefore, when A1 produced Ext.P1 driving licence during vehicle checking, PW6 enquired about its genuineness with the Regional Transport Office, Kalpetta and upon verification it was revealed that Ext.P1 licence was not issued from there; that Ext.P1 is a fake and forged one. Accordingly, PW6 arrested A1 and took into custody of Ext.P1 as per Ext.P2 seizure mahazar. Ext.P3 is the arrest memo. Ext.P5 is the FIR. PW2 is a witness to Ext.P2 seizure mahazar and Ext.P3 arrest memo.

8. PW1 who was a Civil Police Officer attached to the Mananthavady Police Station also testified in tune with PW6. He too testified that when the autorickshaw driven by A1 was intercepted for checking, A1 produced Ext.P1 driving licence and since the police officials had doubt about the genuineness of Ext.P1, PW6 contacted the Regional Transport Officer, Kalpetta over phone whereupon it was revealed that no such driving licence was issued from there and Ext.P1 was a forged one.

9. PW3 was the Motor Vehicle Inspector, Regional Transport Office, Wayanad. He, in his evidence testified that he verified Ext.P1 and issued Ext.P11 letter stating that Ext.P1 driving licence was not issued from his office.



10. PW3, the Motor Vehicle Inspector has categorically testified before the trial court that Ext.P1 is a forged driving licence; that it was not issued from the Regional Transport Office, Kalpetta; that the signature of the Licencing Authority seen in Ext.P1 is a forged one. Further, he has testified that the number assigned to the licence issued from that office during 2010 were having four digits, whereas, the number shown in Ext.P1 has five digits. His further version is that the round seal seen on the reverse side of Ext.P1 document is not that of Regional Transport Office, Kalpetta and in the licence issued from the said office, no such seal as seen in Ext.P1 will be there.

11. The evidence on record would show that on 1.6.2010 at around 12.15 hrs. when the police party led by the Sub Inspector of Police, Mananthavady conducted vehicle checking and intercepted the autorickshaw driven by A1, the latter produced Ext.P1 driving licence for inspection. The evidence on record would show that Ext.P1 is a forged one and it was not issued from the competent authority. It has also come out in evidence that A1 was an accused in Crime No.273/2010 of Mananthavady Police Station and he was booked for causing death by rash and negligent driving. In the said



case, there was also an allegation that he had no driving licence to drive the said vehicle.

12. The evidence on record would show that A1 presented Ext.P1 bogus driving licence before PW6 to deceive the authorities that he holds a valid driving licence. The said act of the accused would constitute the offence of using forged document as genuine, so as to attract the offence under Section 471 IPC.

13. Accused has no case that Ext.P1 driving licence was not seized by the police from him. The argument advanced by the learned counsel for the accused that A1 was not aware about the authenticity of Ext.P1, is untenable. A1 has not explained as to the circumstances under which he got possession of the said driving licence. The argument advanced by the counsel for the accused that the conviction cannot be based on the testimonies of police officials is untenable. It is well settled that if the evidence of the police officers is found to be reliable and trustworthy, then basing the conviction thereupon cannot be questioned. The presumption that every person acts honestly applies as much in favour of a police official as of any other person.

14. In *Kashmiri Lal v. State of Haryana*



(*MANU/SC/0568/2013*) the Hon'ble Supreme Court held that there is no absolute command of law that the police officers cannot be cited as witnesses and their testimony should always be treated with suspicion. Ordinarily, the public at large shows their disinclination to come forward to become witnesses. If the testimony of the police officer is found to be reliable and trustworthy, the court can definitely act upon the same. If, in the course of scrutinising the evidence, the court finds the evidence of the police officer as unreliable and untrustworthy, the court may disbelieve him but it should not do so solely on the presumption that the witness from the Department of Police should be viewed with distrust. This is also based on the principle that the quality of the evidence weighs over the quantity of evidence.

15. The evidence on record would show that A1 used Ext.P1 forged driving licence as genuine by producing the forged driving licence before the Sub Inspector of Police at the time of vehicle checking.

16. The evidence tendered by the official witnesses would clearly establish the seizure of Ext.P1 forged driving licence from A1. Thus, it is manifest that A1 voluntarily submitted the fake driving



licence before the Sub Inspector of Police and when the police ascertained its genuineness, it was found that it was a forged one, which had never been issued by the Regional Transport Officer. The evidence on record would show that the police officials made enquiry as to the genuineness of Ext.P1 driving licence pursuant to which the Regional Transport Officer replied that no such driving licence has been issued from the said office. Accused has no plausible explanation for possessing and using the forged driving licence. By possessing and using a forged driving licence as genuine, he tried to deceive the police authorities. It stands established that A1 in a fraudulent and dishonest manner produced a forged driving licence before the police officials at the time of vehicle checking and thus tried to defraud them, by knowing fully well that it was not a genuine driving licence.

17. If a person fraudulently or dishonestly presents a document to another person, knowing or having reason to believe such document to be a forged one and the document is 'used as genuine' it comes within the ambit of Section 471 IPC. When a person is called upon to produce a document and he produces the same knowing or having reason to believe the same to be a forged



document, such a person cannot claim absolution. The evidence on record would show that A1/revision petitioner deliberately used the fake driving licence as genuine and produced the same before the police officials with intent to defraud and mislead the police officials. Thus, for all practical purposes it was a 'user' within the scope and ambit of Section 471 IPC.

18. Using a fake driving licence as genuine not only violation of Section 471 IPC but also undermines and compromises road safety and public trust.

19. This Court find no reason to interfere with the concurrent finding of the learned Magistrate and the Sessions Court that A1 is guilty of the offence under Section 471 IPC. Therefore, his conviction for the offence under Section 471 IPC is maintained.

20. Now let us see whether the sentence awarded needs any interference by this Court.

21. The learned Magistrate has sentenced A1 to undergo simple imprisonment for one year and to pay a fine of ₹3,000/-. In default of payment of fine, to undergo simple imprisonment for one month. The sentence imposed by the trial court was confirmed in appeal by the learned Sessions Court.



22. The learned counsel for the revision petitioner submitted that the trial court and Sessions Court ought to have invoked the provisions of Probation of Offenders Act, 1958; that the trial court and the appellate court failed to invoke the provisions of the Probation of Offenders Act, 1958 and has not given any reason in the impugned judgment for not giving the benefit of the provisions of Probation of Offenders Act, 1958.

23. During the pendency of this revision petition, a report was called for from the District Probation Officer, Wayanad. The report filed by the District Probation Officer would reveal that the accused has previous conviction and he was convicted in C.C.No.473/2010 for the offence under Sections 279, 304(A) IPC and Section 3(1) r/w Section 181 of the Motor Vehicles Act by Judicial First Class Magistrate Court II, Mananthavady.

24. Therefore this Court is of the view that this is not a fit case to invoke the provisions of Probation of Offenders Act, 1958. However, having regard to the fact that more than 14 years have elapsed from the date of incident, this Court is of the view that substantive sentence of simple imprisonment of one year can be reduced to simple imprisonment for three months. Accordingly, the



Criminal Revision Petition allowed in part modifying the sentence alone.

The conviction against the accused for the offence under Section 471 IPC is confirmed.

The sentence against the accused is modified as follows:

i) Accused is sentenced to undergo simple imprisonment for a period of three months and to pay a fine of ₹3,000/-. In default of payment of fine, he shall undergo simple imprisonment for one month.

Sd/-

M.B.SNEHALATHA
JUDGE

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