
(1965) 12 RAJ CK 0004
In the Rajasthan High Court
Case No : Criminal Revision No. 205 of 1965

Ramchander

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 03-12-1965

Acts Referred:

Penal Code, 1860 (IPC) — Section 420

Citation : (1966) CriLJ 944 : (1966) RLW 308

Hon'ble Judges : C.B. Bhargava, J

Bench : Single Bench

Advocate : Sobhagmal, for the Appellant; B.C. Chatterjee, for the Respondent

Final Decision : Partly Allowed

Judgement

C.B. Bhargava, J.—This is an application in revision by Ramchander against his conviction u/s 420 of the Indian Penal Code.

2. The petitioner is a motor driver and had obtained driving licence No. 4201 on 10th April, 1957, from the office of the District Superintendent of Police, Ganganagar. On 9th April, 1961 the petitioner while driving Vehicle No. DLG 5176 H. T. V. was prosecuted by Delhi Police u/s (Sic) Rule 6. 9/112 of the Motor Vehicles Act. The petitioner's original licence was impounded by Gurdyal, Head Constable (P. W 4) who sent it along with the police report to the Court of Shri Amrik Singh, Magistrate, First Class, Delhi, on 7th February. 1962, the petitioner made an application Ex. P-1 supported by his own affidavit Ex. P-2 before the Superintendent of Police, Ganganagar for obtaining a duplicate licence on the ground that he had lost the original licence. It was further stated by the petitioner in Exs. P-1 and P-2 that his original licence was not lying in any court in connection with any case. On this representation a duplicate licence was obtained by the petitioner from the office of the Superintendent of Police on 8th February. 1962.

On 28th January, 1963, the petitioner was again held up by the Traffic Police,

Delhi for contravening the provisions of the Motor Vehicles Act and the rules framed under it. This time the petitioner produced duplicate copy of the driving licence which he had obtained on 8th February, 1962. The Superintendent of Police Traffic New Delhi asked the Superintendent of Police, Ganganagar to conduct an enquiry into this matter. Upon enquiry it was found that the petitioner had obtained duplicate driving licence No. 4201 by making a false representation to the Superintendent of Police about the loss of his original licence. A case u/s 420 of the Indian Penal Code was registered against the petitioner and after investigation a challan was submitted against him.

3. Before the Trial Magistrate, Gurdayal Mead Constable (P. W. 4) gave evidence to prove that on 9th October 1961 he had impounded the petitioner's original licence and had sent it along with the challan Ex. P-6 to the Court of the Magistrate. He has stated that the petitioner who was present in the Court was the same person from whom he had taken original driving licence No. 4201 and that at that time he had satisfied himself about the identity of the petitioner by comparing it with the photograph on the licence. Shri Ram-sharan (P. W. 2), Sub-Inspector of Police, C.T.D, Special Branch who was Sub-Inspector of Traffic on 28th January, 1963, gave evidence of his seizing the duplicate driving licence No. 4201 from the petitioner on 28th January, 1963, Shri Mohanlal petitioner's writer (P. W. 1) was examined to prove the application and affidavit Exs. P-1 and P-2 respectively submitted by the petitioner for obtaining a duplicate driving licence No. 4201 which was seized from him on 28th January, 1963 in Delhi by the Traffic Police.

The petitioner also admitted that he had obtained a duplicate licence on 8th February, 1962 from the Superintendent of Police, Ganganagar and had submitted the application Ex. P-1 and affidavit Ex. P-2 for that purpose. He however, denied that original licence No. 4201 was impounded on 9th October, 1961 and that he was prosecuted in the Court of the First Class Magistrate, Delhi for contravention of any provisions of the Motor Vehicles Act.

4. Both the courts below have come to the conclusion that the petitioner had made false representation in Exs. P-1 and P-2 about the loss of the original driving licence. They have found that the original licence was not lost but was impounded on 9th October, 1961 by Gurdayal (P. W. 4) who had submitted it along with the challan Ex. P-6 in the Court of the Magistrate, First Class, Delhi. On this finding they found him guilty u/s 420 of the Indian Penal Code.

5. Learned counsel for the petitioner contended that since the prosecution has not produced the original licence in the case, it is not established that licence No. 4201 was impounded by Gurdayal (P. W. 4) on 9th October, 1961, from the petitioner. At any rate it is contended that the prosecution has failed to establish that the original licence was not lost and if that be so, the representation made by the petitioner in Exs. P-1 and P-2 cannot be regarded as false. It is next contended that the duplicate licence is not "property" within the meaning of Section 420 of the Indian Penal Code and as such the petitioner's conviction for

that offence is bad.

6. In my opinion there is no force in either contention. The petitioner obtained duplicate licence from the Superintendent of Police, Ganganagar by representing to him in Exs. P-1 and P-2 that he had lost the original one and that it was not in the custody of any Court in connection with any case. Obviously the above statement in Exs. P-1 and P-2 was false because the original licence had not been lost but had been impounded by Gurudayal (P. W 4) on 9th October. 1961 and was later on sent to the Court along with the challan.

It was not the case or the petitioner that the original licence had been lost from the custody of the Court or that it was returned to him in exchange for the temporary acknowledgment given under Sub-section (3) of Section 129 of the Motor Vehicles Act. On the other hand he totally denied that he was prosecuted on 9th October, 1961 in Delhi or that his licence was impounded by the Police on that date. In my opinion the statement of Gurudayal (P W 4) proves beyond any doubt that the petitioner's original licence was taken from him on 9th October. 1961. and was sent along with the challan to the court of the Magistrate, First Class, Delhi which remained pending till 5th November, 1963. Thus the objection raised is untenable

7. The next question is whether a duplicate driving licence is property within the meaning of Section 420 of the Indian Penal Code Whether an article is or is not property does not depend upon its possessing the money value or market value as such But it would still be "property" if it has some special value for the accused A motor driving licence entitles a person to drive a motor vehicle in any public place. Unless a person holds an effective driving licence issued to him. he cannot drive a motor vehicle Duplicate licence is issued by the Licencing Authority upon its satisfaction about the loss or destruction of the original licence and it also serves the same purpose i.e., entitles its holder to drive motor vehicle in a public place It cannot, therefore, be said that a duplicate driving licence has no value for its holder The question whether a driving licence is property was considered In re In Re: E.K. Krishnan, and it was held that

"The licence was "property" within the meaning of Section 420 Any object that is of value to one person cannot cease to be property because it passes into the hands of a person who has no use for it. Nor can it be said that an object becomes property only when it comes into the hands of some person who has an actual use for it."

This decision was referred by the Bombay High Court with approval in Durgadas Tulsiram v. State (S) ATR 1955 Bom 82 where it was held that:

"Even if the thing has no money value in the hand of the person cheated, but becomes a thing of value in the hand of the person who may get possession of it as a result of his cheating it would still be "property" An import licence, even when it is in the hand of the licensing authority is therefore, "property" within the meaning of Section 420. I P C

Further, although a particular thing may not have actual money value or a market value at the time, it may still have potential value and would be property within the meaning of Section 420. Therefore, even if the term "property" be constructed to mean a thing which has a value in the hand of the person cheated, even so, in the hands of licensing authority the import licence which certainly had a potential value, would be property within the meaning of Section 420.

Lastly, if the word "property" is construed to mean that which acquires actual value only after it goes into the hand of the person who cheats, even then there is no doubt that the provisions of Section 420 must apply to this case "

In *Abhayanand Mishra Vs. The State of Bihar*, the Supreme Court held that:

"An admission card to sit for the M. A. Examination of a university is property within the meaning of Section 420, Indian Penal Code. Though the admission card as such has no pecuniary value it has immense value to the candidate for the examination. Without it he cannot secure admission to the examination hall and consequently cannot appear at the Examination."

8. In my opinion the above decisions support the view that a driving licence or its duplicate is property within the meaning of Section 420 of the Indian Penal Code. Learned counsel for the petitioner in this connection has referred to a decision of the Calcutta High Court in *Charu Chandra Ghose and Others Vs. King-Emperor*, where it was held that:

"A decree is not a valuable security" and it was further observed that:

"The term "valuable security" is wide enough and only applies to the original document and not to any copy of a decree which may be supplied on application to the parties."

This decision, therefore, is of no help to the petitioner because the duplicate driving licence has the same value as an original licence, and entitles its holder to drive a motor vehicle in a public place This contention also, therefore fails.

9. Learned counsel says that in the circumstances of the case the sentence passed on the petitioner is very severe and it was only a foolish act of the petitioner that he obtained duplicate licence in this manner otherwise he could continue driving motor vehicle with the temporary acknowledgment given to him by the police in exchange for the original licence. It is pointed out that the petitioner has already undergone a sentence of 15 days,

10. In my view looking to the nature of the offence, the sentence of imprisonment already undergone and a fine of Rs. 50 will meet the ends of justice

11. The revision is partly allowed, conviction of the petitioner u/s 420 of the Indian Penal Code is maintained but his sentence is reduced to that already undergone and Rs. 50 as fine. In default of payment of fine he will undergo further fifteen days" rigorous imprisonment as ordered by the court below. He is

on bail and he need not surrender to it. One month's time is allowed for payment of fine.