(2012) 01 GAU CK 0012

In the Gauhati High Court

Case No : Criminal Appeal No. 61 of 2010

Suman Majumder APPELLANT

Vs

State of Tripura RESPONDENT

Date of Decision : 10-01-2012

Acts Referred:

Citizenship Act, 1955 — Section 17, 17
Foreigners Act, 1946 — Section 14, 14
Penal Code, 1860 — Section 420, 468, 471
Penal Code, 1860 (IPC) — Section 420, 468, 471

Citation : (2012) 2 GLT 57

Hon'ble Judges : S.C.Das, J

Bench : Single Bench

Advocate : Mr. A. Ganguly, Sr. Advocate, Mr. D. Bhattacharjee, Mr.S.Lodh & Mr.S.Das, Advocate appeared for the Respondent: Mr.A.Ghosh,Addl.PP, Advocates appearing for Parties

Judgement

S.C. Das, J.—This criminal appeal under Section 374 of Cr.P.C. is directed against the judgment and order of conviction and sentence dated 24.05.2010, passed by learned Chief Judicial Magistrate, West Tripura, Agartala, in case No. G.R.314 of 2008. Learned Chief Judicial Magistrate found the accusedappellant guilty of committing offence, punishable under Section 14 of Foreigners'' Act, 1946 and accordingly convicted and sentenced him to suffer RI for three years and to pay a fine of Rs.30,000/, in default, to suffer further RI for six months, guilty of committing offence, punishable under Section 468 of IPC, and accordingly, convicted and sentenced him to suffer RI for seven years and to pay a fine of Rs.50,000/, in default, to suffer RI for one year, guilty of committing offence punishable under Section 471 of IPC and convicted and sentenced him to suffer RI for two years and to pay a fine of Rs.10,000/, in default, to suffer RI for three months, guilty of committing offence punishable under Section 420 of IPC and sentenced him to suffer RI for one years and to pay a fine of Rs.10,000/, in default, to suffer RI for three months and also found him guilty of committing offence under Section 17 of Citizenship Act and convicted and sentenced him to suffer RI for one year.

Being aggrieved and dissatisfied with the judgment and order of conviction and sentence, the present appeal is preferred on different grounds.

2. Heard learned senior counsel, Mr. A. Ganguly, assisted by learned counsel, Mr. D. Bhattacharjee and learned counsel, Mr. S. Lodh for the appellant, and learned Addl. Public Prosecutor, Mr. A. Ghosh for the State respondent.

3. I have meticulously gone through the impugned judgment passed by learned Chief Judicial Magistrate, West Tripura, Agartala and the evidence and materials on record. This appears to be an exceptional and rare case of forgery and cheating, coupled with commission of other offences by the accusedappellant. Apparently, it would appear, as submitted by defence, that the offence is not so serious and that the accused has already suffered more than three years in custody and so the Court should take a lenient view. But if we go through the evidence and materials on record and see the impugned judgment passed by the learned Magistrate, it will definitely strike any sensible person as to how far a person can go to make forged documents to suit his illegal purpose and how the State machineries have been befooled and cheated by the accused appellant.

The case can no way be treated as an ordinary one but it should be considered as a serious and exceptional one. Perhaps, so far the evidence on record, it would appear that there were some other people behind, who were associated with the accused in creating and making forged documents, but unfortunately, the investigating agency could not find out anybody else than the accusedappellant, and in the facts and circumstances of the case, the accusedappellant cannot deserve a lenient consideration from a Court of law for the offences committed by him.

4. According to the prosecution, a team of police officers of CID, West Bengal, came to Agartala at West Agartala P.S. on 28.03.2008 and with the help, rendered by the Tripura Police of West Agartala P.S., the appellant was arrested in connection with Shibpur P.S. Case No. 15 of 2006, under Sections 468/471/120(B)/121/121(A)/124/420 of IPC, 3 & 4 of Official Secrets Act, Section 4 of the Explosive Substance Act and Section 14 of the Foreigners'' Act. After arrest, the accused appellant was produced before learned Chief Judicial Magistrate, and after taking a transit remand, the accused was taken to the Court of Chief Judicial Magistrate, Howrah, West Bengal, in connection with that case. Since the accused, involved in several offences in West Bengal, was arrested from Agartala, the Addl. Superintendent of Police (Urban), West Tripura, Agartala, directed an inquiry to be made by SI Priyatosh Das (PW. 1), and accordingly, SI Sri Das, on inquiry, filed a suo moto FIR on 16.04.2008 with the Officer Incharge, West Agartala P.S., alleging that the accused Suman Majumder, arrested by the police of CID, West Bengal, had been residing with a fake name and his actual name was Md. Nazmul Haque Salim, S/O Md. Ramiz Uddin of

Maheshpur, POBangla Bazar, PS & DistrictMunshiganj, Bangladesh, and further alleged that during his inquiry it was revealed that the said Nazmul Haque obtained a citizenship certificate from the office of SDM, Sadar, AgartalavideNo.F.6(32)/SDM/CTZN/SDR/06102, dated 02.01.2006 in the name of Suman Majumdar, S/O Late Babul Majumdar of Lankamura, Agartala, West Tripura. It was further alleged in the FIR that the accused Suman Majumder for the purpose of obtaining citizenship certificate made and submitted forged documents, namely, (1) Born and Brought Up Certificate, issued by an Assistant Engineer, Division No. 1, PWD, Government of Tripura, (2) Permanent Resident Certificate, issued by the said Assistant Engineer, (3) School Certificate issued by the Headmaster of Dr. B.R.A.M. H/S School(Primary Section), (4) Family Ration Card in the name of Suman Majumder, (5) Voter List, containing the name of Suman Majumder, etc. It was alleged that all those documents were forged documents and submitted before the SDM, Sadar for the purpose of obtaining a Citizenship Certificate falsely in the name of Suman Majumder and thereby the accused cheated the State and the accused, being a Bangladesh national, was illegally staying in Indian Territory, without valid permission or documents.

5. On the basis of that FIR, West Agartala P.S. case No.77 of 2008, under Sections 4687 471/420 of IPC and Section 14 of Foreigners'' Act was registered and investigation was taken up. Initially, the investigation was entrusted with SI Swapan Dasgupta of West Agartala P.S. on 16.04.2008, but immediately thereafter, the investigation was entrusted to the CID of Tripura Police and on 19.04.2008, Inspector, Pritish Bhattacharjee took up the investigation of the case and in course of investigation, the I.O. appears to have done a tremendous job and collected all materials of forged documents, made and used by the accused, and ultimately, submitted charge sheet vide No. 112 dated 02.09.2008, against the accused, Suman Majumder @ Maman, a Bangladesh National, whose original name was Mafijur Rahaman Maman alias Md. Nazmul Hauque Salim of Mirpore, Bangladesh, for commission of offence under Sections 468/471/420/199/200 of IPC and Section 14 of Foreigners Act and also Section 17 of the Citizenship Act. Learned Chief Judicial Magistrate, West Tripura, Agartala, had taken cognizance, considering the police report and taken up trial against the accused appellant.

6. In course of trial, learned Chief Judicial Magistrate framed charges against the accused for commission of offence, punishable under Section 14 of the Foreigners Act, Section 468 of IPC, 471of IPC on different counts, 420 of IPC, 199 read with Section 200 of IPC on different counts and Section 17 of the Citizenship Act, to which the accused pleaded not guilty and claimed to be tried. Charges so framed against the accused areas follows:

"That, you being the citizen of Bangladesh Nation, residence of Mirpur12 B. Block, House No.15, P.S. Pallabi, Dhaka, Bangladesh came to India during the last part of the year 2001 by using a false passport showing your name as Md. Nazrul Haque Salim and over stayed in the various places of Indian territory including Tripura and continued to stay in Tripura from the month of July, 2003 to

28.03.2008 violating the terms and condition of your visa by changing your original name using different names and thereby you contravened the provision of Section 3 and 5 of the Foreigners Act, 1946 and you thereby committed an offence under section 14 of Foreigners Act and within my cognizance.

Secondly, at any time after July, 2003 and before 28.03.2008 you stayed various places of Tripura e.g Rahimpur, Sonamura, Madhya charipara, Itakhola, Ramnagar Road Number 2 within West Tripura District and forged the following documents :

a) Born and brought up certificate in his name dated23.11.2005.

b) Permanent Resident Certificate dt. 23.112005

c) Attested copy of School Certificate of Dr. Ambedkar High (Pry) School, Joynagar, Agartala;

d) Attested photo copy of ration card No.257 of Lankamura P.P. Shop in the name of Naryan Majumder;

e) Attested photocopy of certificate regarding the name of Babul Majumder at SI. No.352 Part II of 12 Majlishpur Assembly Constituency voter list of the year 1971 dt. 17.032003

f) Attested photo copy of school certificate of Aralia High School 22.10.2002;

g) Attested photocopy of birth certificate dated 26.12.2005 of Agartala Municipal Council.

h) Citizenship Certificate No.6(32) SDO/CTZN/UDP/5573 dated 16.03.1994 of SDM, Udaipur.

i) Citizenship Certificate No.2567/SDO/SDR/CRC/88, dt. 12.05.1988 issued by S.D.M, Sadar.

j) Birth certificate vide registration No.2263,dt. 18.10.2002 of Agartala Municipal Council.

k) Certificate of shifting of the homestead dt. 30.11.2005.

intending that these documents shall be used for the purpose of cheating and that you thereby committed an offence punishable under section 468IPC and within my cognizance; thirdly, that you on or about 2nd January, 2006 you fraudulently used as genuine some of the aforesaid documents which you then knew to be are forged documents for the purpose of obtaining citizenship certificate from the office of SDM, Sadar and that you thereby committed an offence punishable under section 471 IPC and within my cognizance;

fourthly, that you being the Bangladesh National fraudulently procured and used some documents namely, born and brought up certificate, permanent resident certificate, school leaving certificate, family ration card etc, which you knew to be forged and applied for citizenship certificate before the SDM, Sadar on 2nd Jaunary, 2006 and fraudulently obtained by birth citizenship certificate vide No.6(32)SDM/CTN/SDR/06/102 dt. 02th January, 2006 for you in the name of Suman Majumder and that you thereby committed an offence punishable under section 17 of the Citizenship Act, 1952 and with my cognizance.

Further, that on or about 07.04.2006 you fraudulently used as genuine certificate/ documents to wit false birth certificate, false school certificate, Aralia School etc which you then knew to be forged and used for the purpose of enrolling you name in the electoral roll and accordingly your name was enrolled in 7 Ramnagar Assembly Constituency, Part8, Serial number 798 and that you thereby committed and offence punishable under section 471 of I.P.C. and within my cognizance;

That, you on or before 19th December, 2006 fraudulently used as genuine certificate and documents to wit, forged School Certificate of Aralia High School and ration card for the purpose of obtaining PAN Card and accordingly, you obtained PAN card bearing No.SONPM 0712 N from the Income tax Authority, Government of India and that you thereby committed an offence punishable under section 471 IPC and within my cognizance;

That on or about 23.10.2006 you fraudulently used certificate and documents namely certificate of shifting homestead from Teliamura to Agartala, Birth certificate in the name of Smti Suben Majumder(Daughter), Birth Certificate in the name of Hridam Majumder, son, citizenship certificate purportedly issued in the name of Suman Majumder issued by the SDM, Udaipur and certain certificates issued in the name of Papri Majumder purportedly issued by SDM, Sadar, Food Section, Agartala and obtained ration card bearing No.584 against Nutannagar Fair Price Shop Number 2 and that you thereby committed an offence punishable under section 471IPC and within my cognizance;

That on or about 21.05.2007 you fraudulently used certain documents namely voter Identity card bearing No.KMM 0330761, citizenship certificate, school certificate issued by Aralia High School, birth certificate issued by Health Officer, Agartala Municipal Council, Family ration card of Mohanpur R.D. Block issued as genuine for the purpose of obtaining driving licence and you obtained learner Driving leicence vide No.TR 0l/LL/4374/0607 and thereby committed and offence punishable under section 471 IPC and within my cognizance;

That you on 28.02.2007 obtained an international pass port vide No.G5673922 issued by the Regional Passport Authority, Government of India, Kolkata fraudulently by using as genuine certificate/documents to wit citizenship certificate, voters Identity Card, ration card, PAN Card, Certificate from MLA Sri Surajit Dutta, Tripura Legislative Assembly and by false affidavit falsely declaring your nationality, birth and educational qualification which you knew them to be forged documents and that you thereby committed an offence punishable under section 471 IPC and within my cognizance.

That, you obtained a pass book from UBI, Agartala Branch on 16.01.2007 in pursuance of your application dated 16.01.2007 by fraudulently using as genuine certificate/documents to wit family ration card and voter Identity card which you knew to be a forged document and that you thereby committed and offence punishable under section 471 IPC and within my cognizance;

That you got enrolled your name as Suman Majumder in the Electoral Roll of 7 Ramnagar Assembly Constituency of the State of Tripura in par number 4, SI. No.798 and obtained Voter Identify Card bearing No. KMM0330761 in the name of Suman Majumder by fraudulently using as genuine certificate/document to wit attested copy of fraudulently obtained Citizenship Certificate, School Certificate of Arali High School, attested birth certificate in the name of Suman Majumder, which you knew to be forged document and thereby committed an offence punishable under Section 471 and within my cognizance;

That on or about 30.11.2005 you cheated the SDM, Sadar by dishonestly inducing him to issue citizenship certificate in your favour by producing forged documents viz Born and brought up certificate, permanent resident certificate, school certificate, family ration card, electoral roll and also obtained citizenship certificate on 02.01.2006 and that you thereby committed and offence punishable under section 420 of the Indian Penal Code and within my cognizance;

That you on or about 7th December, 2006 you made a false declaration before the Commissioner, Income Tax, Government of India, Shilong, Meghalaya through National Securities Depository Limited, Senapati Bapad Marg, Mumbai for obtaining PAN card which you knew to be false and subsequently obtained the PAN Card vide number PAN AONPM 0712 N and thereby committed an offence punishable under section 199 IPC read with section 200 IPC and within my cognizance and I direct that you be tried on the said charge;

That you on or about 02.01.2006 made a false declaration before the SubDivisional Magistrate, Sadar and submitted copies of false documents namely, school leaving certificate, family ration card, permanent resident certificate and born and brought up certificate etc, which you knew to be false and subsequently you obtained citizenship certificate vide Number F.6(32)SDM/ CTZN/SDR/06/102, dated 02.01.2006 in your name and that you thereby committed an offence punishable under section 199 IPC read with section 200 IPC and within my cognizance and I direct that you be tried on the said charge;

That you on 07.04.2006 made false declaration before the Electoral Registration Officer of 7/8 Ramnagar Assembly Constituency that you are an Indian Citizen with a view to get your name enrolled in the Electoral Roll of 7/8 Ramnagar Assembly Constituency which you knew to be false and that you subsequently got your name enrolled in the electoral roll and that you thereby committed an offence punishable under section 199 IPC read with section 200 IPC and within my cognizance and I direct that you be tried on the said charge;

That you on or about 15th May, 2007 made a declaration before the Licencing

Authority, West Tripura, Department of Transport, Government of Tripura, Agartala for getting a Learner Driving Licence in your name wherein you made a false declaration and used forged school certificate and birth certificate and voter photo Identity Card and thereby committed an offence punishable under section 199 IPC read with section 200 IPC and within my cognizance and I direct that you be tried on the said charge; That you on or about 14.02.2007 before the Notary Public at Agartala Court complex sworn an Affidavit and made false declaration that you were born on 02.11.1973 at IGM Hospital, Agartala which you knew to be false and that on about 07.03.2007 you subsequently used the said Affidavit containing false declaration as true for the purpose of obtaining International Passport and you also obtained the International Passport in your name and thereby you have committed an offence punishable under section 199 IPC read with section 200 of IPC and within my cognizance."

7. In course of trial, prosecution examined 43 witnesses, who adduced oral evidence and in course thereof 313 exhibits were made, while proving the documents, collected during investigation. The names of witnesses and details of exhibits have been given by the trial court in the judgment, and therefore, it is considered unnecessary to reproduce it here again.

The accused was examined under Section 313 of Cr.RC. explaining the evidence and materials appeared in the evidence, oral and documentary, and his statement was recorded. The accused was asked to adduce defence evidence but he declined. Defence case is, that of a bare denial of the prosecution case.

8. The evidence on record is voluminous. I have meticulously gone through the evidence on record and the impugned judgment passed by learned Chief Judicial Magistrate and I find that the learned Magistrate considered and appreciated the evidence on record very meticulously and arrived at a reasonable finding in respect of the guilt of the accused. The prosecution evidence is overwhelming and there is no room asking for detailed reappreciation of the evidence on any count.

9. On perusal of the impugned judgment passed by the learned Chief Judicial Magistrate, I find that learned Magistrate formulated 16 points for consideration of the evidence on record and for determination of the charges and those are as follows:

"(1) Whether the accused is a foreigner and if so, whether he is liable to be convicted under Section14 of the Foreigners Act, 1946?

(2) Whether the accused stayed in Indian territory including in Tripura illegally?

(3) Whether the accused resided in different placed of Tripura namely at Rahimpur, Madhya Charipara, Ita Khola, etc. within West Tripura District during the period from the Month of July, 2003 to 28.03.2008?

(4) Whether the accused resided in different places of Tripura in different names changing his original name?

(5) Whether the accused during his stay in Tripura in various places created and forged the following documents:

(a) Born and Broughtup certificate in his name dated 23.11.2005

(b) Permanent Resident Certificate dt. 23.112005

(c) Attested copy of School Certificate of Dr.Ambedkar High (Pry) School, Joynagar, Agartala;

(d) Attested photo copy of ration card No.257 of Lankamura P.P. Shop in the name of Narayan Majumder.

(e) Attested photocopy of certificate regarding the name of Babul Majumder at SI. No.352 Part II of 12 Majlishpur Assembly Constituency voter list of the year 1971 dt. 17.032003.

(6) Whether accused on 2nd January, 2006 fraudulently obtained the Citizenship Certificate from the Officer of SDM, Sadar, by using forged documents viz. Born & Brought Up Certificate, Permanent Resident certificate, Attested Photocopy of School Certificate of Dr. B.R. Ambedkar High(Pry.) Section, attested photocopy of Ration Card No.257, attested photocopy of Electoral Roll of 120Majlishpur Assembly Constituency for the year 1971 ?

(7) Whether the accused during his stay in Tripura in various places created and forged the following documents:

(I) The attested photo copy of R.O.R. (shifting of homestead certificate) dated 30.11.2005 issued by BDO, Teliamura;

(II) Attested copy of birth certificate of Smti. Suvan Majumder, daughter of Suman Majumder;

(III) Attested photo copy of birth certificate of Ridhom Majumder, son of Suman Majumder;

(IV) Attested photo copy of citizenship certificate issued by SDM Sadar, in the name of Papri Majumder, daughter of Nepal Majumder;

(V) Attested copy of citizenship certificate issued by SDM, Udaipur, South Tripura in the name of Suman Majumder;

(8) Whether the accused on 23.11.2006 fraudulently used certain forged documents namely, (1) Certificate of Shifting Homestead from Teliamura to Agartala, (2) Birth Certificate in the name of Smti. Suvan Majumdar, (daughter), (3) Birth Certificate of Shri Ridom Majumdar(Son), (4) Citizenship Certificate in the name of Suman Majumdar issued by the SDM, Udaipur, (5) Citizenship Certificate issued in the name of Smti. Papri Majumdar(wife) from the Office of SDM, Sadar, for obtaining Family Ration Card and thereby obtained Family Ration Card bearing No.584 under Nutannagar FP ShopNo.2?

(9) Whether the accused during his stay in the State of Tripura created and forged the following documents:

(1) Attested photocopy of Birth Certificate dated 26.12.2005 issued by Agartala Municipal Council in the name of Suman Majumdar;

(2) Attested photocopy of School Certificate of Aralia High School dated 22.10.2002; Whether the accused

(10) Whether the accused on 7.04.2006 fraudulently used as genuine some Certificate/Documents namely, Birth Certificate, School Certificate etc. for the purpose of enrollment of his name in the Electoral Roll and thereby he managed to enroll his name in Ramnagar Assembly Constituency, Part8, in SL. No.798 and whether he obtained Voter Identity Card in the name of Suman Majumdar?

(11) Whether the accused on 19th December, 2006 fraudulently used as genuine/ Documents namely School of Aralia High School, Ration Card for the purpose of obtaining PAN Card and accordingly he obtained PAN Card bearing NO.SONPM0712N?

(12) Whether the accused on 21.05.2007 fraudulently used certain documents namely, Voter Identity Card, Citizenship Certificate, School Certificate issued by Aralia High School, Birth Certificate issued by the Agartala Municipal Council, Family Ration Card of Mohanpur RD Block for the purpose of obtaining Learner''s License and obtaining Learner''s License applied for Driving License using forged documents?

(13) Whether the accused on 28.02.2007 obtained International Passport in his name fraudulently by using as genuine of the Certificate/Documents to wit Citizenship Certificate, Voter Identity Card, Family Ration Card, PAN Card etc.?

(14) Whether the accused for the purpose of obtaining International Passport sworn a false affidavit declaring his Nationality as Indian Citizen and also falsely declaring his place of birth and Educational Qualification?

(15) Whether the accused obtained a Bank Pass Book Account under UBI, Agartala Branch on 16.01.2007 by fraudulently using some documents as genuine?

(16) Whether the accused is liable to be convicted under section 199/200 of IPC for making false declaration before the Public Servant for obtaining PAN card, citizenship certificate, ration card, pass port, learner licence and for enrollment of his name in the Electoral Roll?"

10. While determining the above points formulated by learned C J.M, it appears, learned Magistrate elaborately discussed the evidence on record and arrived at a cogent finding and there is no room at all to interfere with any of the finding so arrived by the learned Magistrate.

11. PW. 1 was present with the police officials of CID, West Bengal when the

accused was arrested from his rented house at Akhaura Road i.e. the house of PW.21. The witness stated that he had seen the accused Nazmul Haque Salim, when he was arrested by the CID, West Bengal and brought him to the West Agartala P.S. for safe custody at P.S. for a night and he identified the accused in the dock in course of trial. He stated that the accused obtained citizenship certificate and other certificates with his fake name, Suman Majumder based on forged documents.

P W.2 stated that his house is at Rahimpur, Baxanagar under Kalamchoura P.S. Sajjad Hussain alias Saju came to his house with reference to his elder brother from Bangladesh and requested him to stay for a few days in his house, and accordingly, he allowed the said Sajjad Hussain to live in his house for about two months and that Sajjad Hussain came in India with passport and visa. The said Sajjad Hussain told him that his friend Maman, a businessman of Calcutta, would come to meet him in Tripura and on the day of arrival of Maman, he accompanied Sajjad to Agartala Airport with a hired Maruti van vehicle. Maman was taken to his house and during conversation, Maman told him that he was a man of Mirpur, Dhaka of Bangladesh, and that on the following day, his wife would also come through Akhaura IndoBangladesh Check Post, and accordingly, he along with Maman and Sajjad went to Akhaura Check Post and wife of Maman arrived by bus at about 01.00 pm from Bangladesh, and thereafter, all of them returned to his house at Rahimpur. Maman and his wife stayed for a few days in his house and then they were arranged for their stay in a nearby house of Tara Miah. But, after a few days, Maman told him that he was not feeling well in the locality at Rahimpur and requested him for a rented house at Agartala and he told him that there was a vacant room in his brother''s house at Charipara and his brother''s name was Samir Ghosh. After two days, Maman with his wife left for Calcutta and on way to Calcutta, they saw the vacant room of his brother, Samir at Charipara and he also accompanied them. After 4/5 months he came to know that Maman lived with his wife at his brother''s house at Charipara for about two months. In the year 2008 he found in the newspaper that Maman Miah alias Suman Majumder was arrested and in course of investigating police officer of CID met him and had shown him the photograph of Maman in the citizenship certificate and he could easily identify that it was the accused Maman, whom he received from Agartala Airport and arranged for stay of Maman and his wife. He also identified the accused in the dock in course of trial. His evidence remained unrebuted.

PW.3 stated that Maman Miah lived in her house as a tenant for about five/six months at Akhaura Road.

PW.4 stated that the accused Maman Miah lived in his house with his wife as a tenant for a few months and they told him that they were of Muslim community and while he was in need of repair of his house, he arranged accommodation for the accused with his wife, namely, Papri in the house of PW.21 at Akhaura Road, and accordingly, the accused shifted to that house. He also identified the accused as Salim, who lived in his house as a tenant.

P W.21 also stated with full corroboration of PW.4 that the accused lived in his house as a tenant as introduced by PW.4 and he could notice that the wife of the accused was not wearing vermin and he came to know from the accused that the accused belonged to Mohammedan community and that he used to call his wife as Papri. He was also told by the accused that he was a businessman by profession. He further stated that the accused was arrested from his house by the police of West Bengal, and thereafter, his other family members with all belongings left from his house.

The evidence of the above witness remained completely unrebuted and there is no room of suspicion regarding identity of the accused, who came to Tripura, introducing himself as Maman Miah from Bangladesh and thereafter the accused created all those forged and fictitious documents in a fake name, Simian Majumder, S/O Babul Majumder and also created documents in the name of his wife, Papri Majumder, son, Ridham Majumder and daughter, Suvan Majumder. Therefore, charge under Section 14 of the Foreigners''Act has been established beyond doubt.

12. Prosecution case is that the accused at first made Born and Broughtup Certificate(Exbt.6) and a Permanent Resident Certificate(Exbt.7), issued by one M. Das, Assistant Engineer, PWD, Division No.1, Agartala. Prosecution led overwhelming evidence that there was no such Assistant Engineer, working in the PWD Division No.1, Agartala, at the relevant point of time. It is amply proved that those were forged documents. Prosecution also brought on record that the accused obtained a School Certificate issued by Dr. B.R.A.M. H.S. school (Primary) (Exbt.8) and Aralia High School but those were also forged documents as proved by the prosecution. The accused obtained a Family Ration Card of Lankamura P.P. Shop and family shifting certificate, involving various blocks i.e. Teliamura R.D. Block and Mohanpur R.D. Block and all those were found forged documents and the accused created all those documents and used the same. The accused had included his name in the Electoral Roll of 12 Majleshpur Assembly Constituency, showing him as transferred and also created forged document showing his father''s name as Babul Majumder in the Electoral Roll and created all those forged documents for entry of his name in the voters list. The accused obtained false Birth Certificate in his name and in the name of his wife, Papri Majumder and children, Suban Majumder and Ridam Majumder from the Agartala Municipal Council and those forged documents were made for the purpose of obtaining Citizenship Certificate (Exbt. 11) from the office of SDM, Sadar. The accused also obtained false Citizenship Certificate from SDO, Udaipur, which was actually issued in the name of Dipak Sarma and the accused with some mechanical process, created forged certificate in his name. The accusedappellant obtained PAN card and driving licence, using forged documents and also created ration card with such forged documents. The evidence on record regarding creation and use of those forged documents are overwhelming and leaves no room to

interfere.

Since the trial court elaborately discussed the evidence on record on the charges under Sections 468,471 and 420 of IPC and Section 17 of Citizenship Act and arrived at a cogent finding of the guilt of the accused, I consider it unnecessary to discuss it again in this appeal. Each of the charges is well founded on the evidence on record.

13. Learned senior counsel, Mr. Ganguly has pointed out that none of the documents were seized from the custody of the accused, and therefore, accused cannot be held guilty for creation of those documents. Learned Addl. P.P., on the other hand, has submitted that the accused used those documents for Citizenship Certificate, PAN Card, Ration Card, Driving Licence, etc. and, therefore, it is bound to be presumed that it is the accused, who created those documents to suit his purpose and none else. All those forged documents have clearly been proved in this case were in the name of the accused, his wife and his children. The wife and children of the accused vanished immediately after his arrest by the CID, West Bengal. I.O. has clearly stated that he visited the rented house of the accused but found nothing, as after the arrest of the accused, his family was shifted and left the house. PW.21 corroborated the fact. There is no legal compulsion that unless a forged document is seized from the custody of the person concerned, those cannot be used against him. I find no reason at all to attach any importance in the arguments advanced by learned senior counsel on this core.

14. On perusal of the prosecution evidence on record, it appears that the accused to suit his purpose made several forged documents, got those attested with fake seals and signatures of fake gazetted officers and used the same to obtain Citizenship Certificate, Voter Identity Card, PAN Card, Ration Card, etc. and so, thereby, he cheated the State machineries. The word, ''forgery'' is defined in Section 463 of IPC thus:

"[Whoever makes any false documents or false electronic record or part of a document or electronic record, with intent to cause damage or injury], to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery."

It is overwhelmingly established that the accused created forged documents and used the same to suit his purpose in different ways and means, and therefore, the acts and dids of the accused squarely come under the purview of Section 468 and Section 471 of IPC and, hence, the finding of conviction and sentence of the accusedappellant by the learned Chief Judicial Magistrate, deserved no interference.

15. Learned senior counsel, Mr. Ganguly has submitted that the accused is in custody from the date of his arrest and so a lenient view may be taken. I have already observed that the accused committed a very grave offence. The

accusedappellant, being a Bangladesh national, definitely lived at West Bengal and involved himself in numerous offences, for which he was arrested by the police of CID, West Bengal and that has drawn the attention of police of Tripura and on investigation, it was established that the accusedappellant was a veteran in the field of offence and spread his network to create forged documents to suit his purposes for stay in Tripura with a false and fake name, and thereby, cheated the State machineries and, hence, I find no reason at all to take a lenient view in this case.

16. There is no merit at all in the appeal and the appeal, therefore, stands dismissed. Send back the L.C. records along with a copy of the judgment.