
(1993) 11 DEL CK 0023
In the Delhi High Court
Case No : Criminal Revn. No. 8 of 1993

The State

APPELLANT

Vs

Dr. Nagendra Pal Singh

RESPONDENT

Date of Decision : 03-11-1993

Acts Referred:

Citation : (1994) 53 DLT 106 : (1994) ILR Delhi 127

Hon'ble Judges : Sagar Chand Jain, J

Bench : Single Bench

Advocate : S. Lal, for the Appellant; O.P. Soni and Ms. Kamlesh Dutta, for the Respondent

Judgement

1. The facts giving rise to this petition are that during the year 1979 Dr. N. P. Singh, the respondent herein, when he was a Professor & Head of the Department in Willingdon Hospital formed an association, namely, National Association of Critical Cure Medicine India (N.A.C.C.M.). subsequently he moved the office of the Registrar of Firms and Societies, Directorate of Industries, Delhi Administration, Delhi on 7th December, 1979 for registration of the same. He submitted a Memorandum of Association containing the names of seven doctors as its Executive Members. Later on a fresh Memorandum of Association containing the names of eight doctors as members was submitted to the Registrar's Office as the earlier one was found to be incomplete and did not fulfill the requisite conditions. During investigation it was found that the Registrar of Society believed the documents as genuine and registered the same and a Registration Certificate No. 10874 dated 22-3-80 was issued under the Societies Registration Act of 1860. The accused, who is the respondent herein also formed another association, namely, National Association of Emergency Disaster Medicine (N.A.E.D.M.) and he applied on 19-7-80 to the Registrar of Societies mentioned above. The set of Memorandum of Association contained the names of ten doctors and the Registrar's Office believing the documents to be genuine issued a Registration Certificate on 11-8-80 under the Societies Registration Act

of 1860.

2. It is also averred that further investigation revealed that the names of the doctors mentioned on the two sets or Memoranda of Association submitted to office of the Registrar of Societies were found fictitious. Some names/signatures were found to be non-existent and some were forged. Dr. S. K. Sinha of C.G.H.S., Delhi who reportedly attested the signatures of these members of memoranda was found to be non-existent person. Doctors who were found available were examined during investigation and they denied that they had signed any Memorandum of Association as alleged. The specimen signatures of the doctors were sent to the G.E.Q.D., Shimla office which gave an opinion that signatures on the Memoranda of Association were forged by Dr. N. P. Singh, particularly the signatures of two doctors, namely Dr. J. S. Anand and Dr. S. K. Sinha on the Memo of Association were forged by him.

3. It is further on record that after registration of the two Associations, the accused, Dr. N. P. Singh utilised these certificates of registration for various purposes such as collection of donations, grants-in-aid from the Govt./Semi-Govt. and other organisations. He also managed to conduct some seminars in Vigyan Bhawan on rent free basis in the name of the Associations. Thus, he collected lakhs of rupees in the name of the two Associations which he got registered by playing fraud on the Registrar of Societies by forging the signatures of the doctors on the Memoranda of Association.

4. The accused was charged for the said offences and the charge-sheet was filed being case No. 3/2 under sections 420, 468, 471, IPC. The learned Magistrate after hearing counsel for the parties by his order dated 15-10-92 discharged the accused on the ground that S. 420, I.P.C. cannot be made out because according to him the Registration Certificate is not a property. Similarly, he held that S. 468 cannot be made out as the subject of the offence was not a property which is a legal requirement. However, the Magistrate came to the conclusion that the offence under S. 465, I.P.C. can be made out as per the evidence collected by the investigating agency, but since the punishment provided for the offence is only two years and, Therefore, the same is barred by limitation as the case was registered in 1988 and the charge-sheet was submitted in March, 1992 i.e. much after the expiry of period of limitation. Aggrieved by the said order, the Central Bureau of Investigation has filed this revision petition.

5. I have heard learned counsel for the parties and gone through the record. The only question which has to be answered in this case is whether the Registration Certificates so issued in favor of this accused in respect of the two associations came within the definition of "property" as mentioned in S. 420, I.P.C. This question cropped up before the Hon"ble Supreme Court many a times. In the case of Ishwarlal Girdharlal Parekh Vs. State of Maharashtra and Others, Hon"ble Supreme Court interpreted the word property occurring in S. 420, I.P.C. and as per the observations of the Hon"ble Judges "the word "property" occurring in S. 420, I.P.C. does not necessarily mean that the thing of which a delivery is

dishonestly desired by the person who cheats, must have a money value or a market value, in the hand of the person cheated. 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 the cheating practiced by him, it would still fall within the connotation of the term property in S. 420, I.P.C." In that case it was held that even the Income Tax order in favor of the assessed is a property since it is of great importance to assessed as containing a computation of his total income and as a determination of his tax liability.

6. Similarly, in *Abhayanand Mishra Vs. The State of Bihar*, , while interpreting the word property as mentioned in S. 420, I.P.C., the Hon"ble Supreme Court observed that an admission card to the university examination is a property within the meaning of S. 420, I.P.C. 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.

7. In this case it is apparent from the record that on the basis of forged and fictitious documents submitted by this accused, Dr. N. P. Singh, he got registered two associations, namely, National Association of Critical Cure Medicine India (N.A.C.C.M.) and National Association of Emergency Disaster Medicine (N.A.E.D.M.) with the Registrar of Societies and made use of their Registration Certificates for collecting donations, grants-in-aid from the Govt./Semi-Govt. and other organisations. In this way he collected lakhs of rupees in the name of the Associations shown to have been registered with the Registrar of Societies. He also managed to conduct some Seminars in Vigyan Bhawan on rent free basis in the name of these Associations so got registered. In these circumstances, how can it be said that these two Registration Certificates obtained on the basis of forged and fictitious documents and by playing fraud upon the Registrar of Societies cannot be termed as a "property" as mentioned in S. 420, I.P.C. The finding of the Metropolitan Magistrate that these Registration Certificates are not "property" cannot be said to be legal. Had these fictitious and forged signatures on the Memoranda of Association were not produced before the Registrar of Societies, these two Associations would not have been registered by the Registrar of Societies. The registration of an association gives credibility to that association. No doubt it is true that an association can be run even without registration, but a registered association has very much a greater value than an unregistered association.

8. At the time of framing of the charge meticulous consideration of the material by the Court is not required.

9. Relying upon the decisions of the Hon"ble Supreme Court cited above and other circumstances which squarely apply to the facts of the present case, I find that the order passed by the learned Metropolitan Magistrate on 15-10-1992 is not legal and sustainable in the eyes of law. By misinterpreting the word

"property" as occurring in Section 420, I.P.C. and discharging the accused person by the learned Metropolitan Magistrate, miscarriage of justice has occurred and, Therefore, I accept this revision petition and set aside the impugned order.

10. Ordered accordingly.