
(2013) 09 DEL CK 0125
In the Delhi High Court
Case No : Criminal A. 1277 of 2012

Virender Kumar Rai and Another

APPELLANT

Vs

The State (NCT of Delhi)

RESPONDENT

Date of Decision : 09-09-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 170, 255, 256, 259

Citation : (2013) 09 DEL CK 0125

Hon'ble Judges : S.P. Garg, J

Bench : Single Bench

Advocate : P.K. Bhardwaj and Mr. N.K. Sharma, for the Appellant; Lovkesh Sawhney, APP., for the Respondent

Final Decision : Disposed Off

Judgement

S.P. Garg, J.—Virender Kumar Rai (the appellant) challenges a judgment dated 16.08.2012 in Sessions Case No. 49/2009 arising out of FIR No. 255/07 PS Dwarka by which he was held guilty for committing offences punishable under Sections 255 /256 /259 /260 /420 /120B /170 /420 /468 /473 /489D & 489 /120B IPC. By an order dated 23.08.2012, he was directed to (a) undergo sentence for period already undergone with fine Rs. 25,000/- under Sections 255 /259 /260 /420 /120B IPC and in default of payment of fine to undergo SI for six months; (b) RI for seven years with fine Rs. 25,000/- u/s 256 IPC and in default of payment of fine to undergo SI for six months; (c) RI for two years u/s 170 IPC; (d) RI for seven years with fine Rs. 25,000/- u/s 420 IPC and in default of payment of fine to undergo SI for six months; (e) RI for seven years with fine Rs. 25,000/- u/s 468 IPC and in default of payment of fine to undergo SI for six months; (f) RI for seven years with fine Rs. 25,000/- u/s 473 IPC and in default of payment of fine to undergo SI for six months; (g) RI for ten years with fine Rs. 50,000/- u/s 489D IPC and in default of payment of fine to undergo SI for one year; and, (h) RI for ten years with fine Rs. 50,000/- u/s 489D /120B IPC and in default of payment of fine to undergo SI for one year. Allegations against

the appellant were that on 10.03.2007 he with his associates hatched a criminal conspiracy to print counterfeit postal stamps and pursuant to that criminal conspiracy, the appellant - Virender Kumar and his associates Hari Narayan and Yagya Dutt Sharma were found in possession of counterfeit sheets of postal stamps and instruments and materials, such as scanner, printer, CPU, hard disc, one CD found in the CD driver of CPU, computer screen, keyboard, mouse, two software scanner CDs, etc. for the purpose of being used knowing or having reason to believe that these were intended to be used for counterfeiting the stamps issued by the Government for the purpose of revenue. Further allegations against the appellant were that on 10.03.2007 ten sheets of fake postal stamps and one pen drive, knowing or having reasons to believe that the same are intended to be used for the purpose of counterfeiting stamps issued by Government for the purpose of revenue and such stamps were counterfeited and knowingly performed part of process of counterfeiting the fake stamps issued by the Government of India for the purpose of revenue were recovered. 110 sheets of fake postal stamps each sheet containing 50 postal stamps of denomination of Rs. 10/- and Rs. 50/-, the pattern of logos on all the sheets so recovered, were similar to the stamps recovered from other co-accused persons and counterfeited or knowingly performed any part of the process of counterfeiting such stamps before 10.03.2007 issued by the Government of India for the purpose of revenue. Further allegations against him were that at WZ-391A, First floor, Main Market, Palam, Delhi he impersonated himself as senior officer in Food and Supply Department before one Ganesh Kumar Mishra and cheated him to the tune of Rs. 1,60,000/- on the pretext to give him a job and was running a fake parallel office of Food and Supplies, MCD from the first floor of the premises and was found in possession of three rubber stamps of Charak Palika Hospital, DDU Hospital and Deptt. of Food & Supplies and one readymade rubber stamp kit, registers, joining letters, blank format, survey reports, assessment forms and 78 original mark sheets and degrees and cheated the persons by selling such degrees. It was further alleged that on 10.03.2007 at M-14, Niti Vihar, Mubarik Pur, Delhi he forged appointment letter for Ganesh Kumar Mishra for the purpose of cheating him to the tune of Rs. 1,60,000/- and was found in possession of counterfeit seals and other material belonging to Food and Supplies Departments, Weights, Measures and Consumer Affairs, Govt. of India and NDMC with an intention to commit forgery otherwise knowing the same to be counterfeit. After completion of investigation, a charge-sheet was filed in the Court of concerned Metropolitan Magistrate. The accused along with associates was duly charged and brought to trial. The prosecution examined 33 witnesses to prove the charges. In their 313 statements, the accused persons pleaded false implication. After considering the rival contentions of the parties and appreciating the evidence on record, the Trial Court, by the impugned judgment, held the appellant guilty for the offences mentioned previously and sentenced him accordingly. Being aggrieved, he has preferred the appeal.

2. The appellant appeared before this Court pursuant to issuance of production

warrants with his counsel. Appellant's counsel on instructions stated at Bar that the appellant has opted not to challenge the findings on conviction under the aforesaid offences. He however prayed to take lenient view as the appellant has already completed substantial portion of the substantive sentence awarded to him and is not a previous convict.

3. Since the appellant - Virender Kumar Rai has opted not to challenge conviction and has accepted it voluntarily in the presence of overwhelming evidence, findings of the Trial Court on conviction are affirmed.

4. The appellant - Virender Kumar Rai was directed to undergo various terms of imprisonment with fine referred above, under different offences. Nominal roll dated 05.09.2013 reveals that he has already undergone six years, five months and seventeen days incarceration as on 05.09.2013. He also earned remission for four months and seventeen days. The unexpired portion is three years, one month and twenty six days. Nominal roll further reveals he is not a previous convict and his overall jail conduct is satisfactory. He is aged about 42 years and is the only earning member of the family. Learned APP has no objection to consider the mitigating circumstances to modify the sentence order.

5. Taking into consideration all these mitigating circumstances, the sentence order is modified to the extent that appellant-Virender Kumar Rai shall undergo total RI for eight years with total fine Rs. 75,000/- and failing to pay the fine to undergo SI for six months.

6. Appeal filed by Virender Kumar Rai stands disposed of in the above terms. Appeal qua Hari Narayan be listed on 29th October, 2013.