

**In the Court of Sh. Rajinder Singh Nagpal, PCS,
Sub Divisional Judicial Magistrate, Samana.**

FIR No: 131 Dated: 28.08.2016.
U/Ss: 420,465,467,468,471 of IPC.
P/S: City Samana.

Police Challan No.: CHI/209/2019
CNR No. PBPTC10013042019
Date of Institution: 30.08.2019.
Date of Decision: 10.12.2024.

S T A T E

Versus

Ashok Kumar son of Des Raj, resident of Ward No.1. Khera Mohalla
Jogiwala, Radaur, District Yamuna Nagar, Haryana.

.....Accused.

Present: Ms. Shimpa, APP for the State assisted by Sh. KS Virk,
Advocate counsel for complainant.
Accused on bail with counsel Sh.Hardeep Sharma, Advocate.

JUDGMENT

1. The above named accused has been forwarded to this Court by the Officer Incharge of Police Station City Samana to face trial for the commission of offences punishable under sections 420, 465, 467, 468, 471 of IPC.

2. In nutshell, facts of the prosecution case are that an application bearing No.2164/Peshi dated 22.04.2015 was moved by Gurmukh Singh son of Jagat Singh to SSP Patiala to take action against Ashok Kumar and Lalit Mohan and it is averred in the application that in second week of January 2015, nephew of complainant namely Amandeep Singh came to him and his brother-in-law Azad Singh was also present

there. His nephew Amandeep Singh is B.A. Pass, but he is unemployed. His brother-in-law Azad Singh told him that he knows someone in Railway Department, who is accused no.1 Ashok Kumar and he can procure job for Amandeep Singh and on this, complainant told him that he should put in efforts to get job for Amandeep Singh. That in the first week of February 2015, Azad Singh telephonically told the complainant that Ashok Kumar told him that posts of TT in Railway Department have been published and a sum of Rs.14-15 lacs is required for the same. Thereafter his brother-in-law Azad Singh alongwith accused Ashok Kumar came to Samana in the second week of February and the matter was settled in Rs.12 lacs and it was settled that Rs.1 lac be given in advance and Rs.11 lacs will be given after the appointment letter and joining letter and complainant gave Rs.1 lac to Ashok Kumar in advance in the third week of February and Ashok Kumar told him to get Amandeep Singh medically and physically tested. Thereafter in the forth week of February 2015, Ashok Kumar sent Amandeep Singh with Lalit Mohan to Calcutta and Lalit Mohan got medical and physical test of Amandeep Singh. Lalit Mohan sent back Azad Singh and he kept Amandeep Singh there for 93 days for training and he used to take his signatures in a diary. After some days, Lalit Mohan also returned to Yamuna Nagar. Thereafter in the last week of March 2015, complainant received phone call from Ashok Kumar, who told to arrange Rs.11 lacs and to take appointment letter of Amandeep Singh within two months and also told to see the result of Amandeep Singh on internet and when complainant told him that he

cannot see result of internet, then Ashok Kumar told him that Lalit Mohan will come to them and he will hand over the result after appointment verification to them. Then on 30.03.2015, Lalit Mohan alongwith Azad Singh came to Samana and showed the result and also gave appointment verification of Amandeep Singh to complainant and asked for payment, but complainant told him that payment will be given after the appointment as he can make the payment after selling his plot at Anandpur Sahib. Thereafter accused persons went from there. On 05.04.2015, Amandeep Singh made a phone call to complainant and demanded for resident proof, on which he told Amandeep Singh to come to Yamuna Nagar and Amandeep Singh came Yamuna Nagar and complainant also went there, where he handed over the resident proof to Amandeep Singh and sent him back. Thereafter in the second week of May 2015, Ashok Kumar asked the complainant to arrange Rs.11 lacs, who told him that his plot could not be sold. Thereafter on 30.05.2015, training of Amandeep Singh was completed and he came back. Then in the first week of June 2015, Ashok Kumar and Lalit Mohan alongwith his nephew Amandeep Singh and Azad Singh came to Samana and told that appointment letter is ready and to make the remaining payment, on which complainant requested for some time. That under the pressure of accused, complainant sold his plot at Anandpur Sahib on 15.06.2015 in the sum of Rs.14,40,000/- and received Rs.3 lacs in advance and date of sale deed was fixed as 16.11.2015. On 17.06.2016, complainant withdrew Rs.3 lacs from the back and told the accused persons to take the payment and on 21.06.2016,

accused persons took the payment from him and asked to arrange the remaining payment, on which they will hand over the appointment letter. Complainant also make payment of Rs.2,00,000/- to accused on 12.02.2016 at Samana and accused told him that they will hand over the appointment letter within some days and thereafter they will get Amandeep Singh joined at Calcutta. That from the last one and half month, complainant is calling accused Lalit Mohan and Ashok Kumar for appointment letter, but same could not be given by them. In this way, accused persons have cheated the complainant for a sum of Rs.12,00,000/-. That on 10.04.2016, Lalit Mohan alongwith Ashok Kumar and Azad Singh came to Samana and told the complainant that he will get appointment letter in some days and they also gave him a cheque of Rs.12,00,000/- and told the complainant that if appointment letter will not be given within one week, then complainant can withdraw Rs.12 lacs from the bank on the basis of said cheque. Thereafter on 18.04.2016, complainant put the cheque in OBC Bank, but he found that payment was stopped by accused Ashok Kumar, due to which said amount could not be withdrawn and said cheque was bounced. So in this way, the accused persons have cheated the complainant to the tune of Rs.12 lacs and did not procure job for Amandeep Singh in railway departmental nor they returned the money. The said application was marked to SP(H) Patiala by SSP Patiala vide letter No.2167/Peshi dated 22.04.2016 for enquiry. Enquiry was conducted by SP(H) Patiala and it was found that accused persons have cheated the complainant for an amount of Rs.12,00,000/- on

the pretext of procuring job for his nephew Amandeep Singh in Railway Department. However, accused have failed to procure job for Amandeep Singh in Railway Department nor they returned the money to complainant. Thereafter opinion of DA (Legal), Patiala was obtained. On the basis of enquiry report, commission of offence under Section 420 of IPC was found to have made out against accused. Thereafter SSP Patiala directed the SHO PS City Samana to register FIR against accused persons. Investigation was commenced by ASI Bhinderpal Singh. During investigation, accused Ashok Kumar was arrested in this case. Raids were conducted to arrest accused Lalit Mohan, but he could not be arrested. During investigation, it was found that accused Lalit Mohan has since died, so his death certificate was obtained. Accused Ashok Kumar was produced before the Court and thereafter was lodged in judicial lockup. Documents regarding appointment in Railway Department and Medical Fitness Certificate were obtained from Amandeep Singh and same were got verified and the same were found to be forged documents. Accordingly, offences under Sections 465, 467, 468, 471 IPC were enhanced. Statements of witnesses were recorded. During investigation, accused Ashok Kumar produced bail orders passed by the Hon'ble High Court, on the basis of which he was released on bail. Statements of witnesses U/s 161 Cr.P.C were recorded. After completion of investigation, challan was presented in the Court against the accused Ashok Kumar for the commission of offences under Section 420, 465, 467, 468 and 471 of IPC.

3. On appearance of accused, copies of Challan and all the documents were supplied to him free of costs as envisaged u/s 207 Cr.PC.

4. After hearing the Ld. APP for the State as well as Ld. counsel for accused and after perusing the Police Report and documents appended with it, a prima facie case under Sections 420, 465, 467, 468 and 471 of IPC was made out against accused and accordingly he was charge sheeted. The charge was then read over and explained to accused in simple language to which he pleaded not guilty and claimed trial.

5. In order to prove the guilt of accused, prosecution examined Gurmukh Singh, complainant as PW1, retired Inspector Bhinderpal Singh, investigating officer as PW2, ASI Surjan Singh, second investigating officer as PW3, Azad Singh, eye-witness as PW4, Amandeep Singh, victim/eye-witness as PW5 and retired ASI Darshan Singh, another investigating officer as PW6. It is pertinent to mention here that PW2 retired Inspector Bhinderpal Singh and PW3 ASI Surjan Singh did not turn up for the their cross-examination. As such, their testimony being incomplete cannot be read into evidence. Thereafter when prosecution has failed to conclude its evidence despite availing numerous opportunities and keeping in view the fact that material witnesses of this case i.e. PW1 Gurmukh Singh complainant and PW4 Azad Singh and PW5 Amandeep Singh alleged eye-witnesses of this case have turned hostile, so the fate of case cannot be improved by examining rest of the prosecution witnesses, accordingly, prosecution evidence was closed by order of the Court.

6. On closure of prosecution evidence, statement of accused under Section 313 of Criminal Procedure Code was recorded, in which all incriminating circumstances appearing in the statements of prosecution witnesses were put to accused, so as to apprise him of incriminating evidence, but accused had refuted all the circumstances by pleading false implication and innocence. However, accused opted not to lead any evidence in his defence.

7. I have heard the contentions of learned APP for the state as well as learned counsel for accused and have perused the case file very carefully and minutely with their able assistance.

8. It is general principle of criminal jurisprudence that it is the duty of prosecution to prove the guilt of accused beyond all reasonable doubts. Prosecution has to stand on its own legs and it cannot take advantage of weakness of defence. Lets now see whether prosecution has been successful in bringing home guilt of accused beyond all shadows of doubts.

9. Accused in the present case has been charge sheeted for the commission of offences under sections 420, 465, 467, 468, 471 of IPC. In order to bring home guilt of accused, prosecution examined Gurmukh Singh, complainant as PW1, retired Inspector Bhinderpal Singh, investigating officer as PW2, ASI Surjan Singh, second investigating officer as PW3, Azad Singh, eye-witness as PW4, Amandeep Singh, victim/eye-witness as PW5 and retired ASI Darshan Singh, another investigating officer as PW6. It is pertinent to mention here that PW2

retired Inspector Bhinderpal Singh and PW3 ASI Surjan Singh did not turn up for the their cross-examination. As such, their testimony being incomplete cannot be read into evidence. Moreover, complainant Gurmukh Singh as PW1 has categorically stated that he has not given Rs.12 lacs or any amount to Ashok Kumar in order to procure job for Amandeep Singh in railways nor did he gave any documents such as appointment letter to him pertaining to joining of Amandeep Singh. He further stated that he has seen Ashok Kumar for the first time in the Court and he do not know him. Similarly, PW4 Azad Singh, alleged eye-witness of this case has categorically stated that he is not aware about the facts of the present case. He also stated that no amount was given by Gurmukh Singh to Ashok Kumar in his presence to procure the job for Amandeep Singh in railways. He further stated that he do not know the accused present in the Court personally. Similarly PW5 Amandeep Singh, alleged victim/eye-witness has categorically stated that he is not aware about the facts of the present case. He also stated that no amount was given by Gurmukh Singh to Ashok Kumar in his presence to procure the job for him in railways. He further stated that he do not know the accused present in the Court personally.

10. Since all these material witnesses of prosecution have turned hostile and have not supported the case of prosecution and have not incriminated the accused in any manner, so they were declared hostile on the request of learned APP for the State and learned APP was given permission to cross-examine these witnesses, but despite their lengthy

cross-examination by learned APP for the State, they have not supported the case of prosecution and have not incriminated the accused in any manner. They were also confronted with their previous statements recorded by the police, but they denied to have made such statements. All these witnesses of prosecution were very material witnesses, but they have not supported the case of prosecution and have not incriminated the accused in any manner, so they could not prove the guilt of accused facing the trial in any manner and except these star witnesses, there is no other eye-witness of the alleged incident and remaining witnesses cited by prosecution are just formal witnesses and they had not witnessed the alleged occurrence. The evidence of PW6 retired ASI Darshan Singh is formal in nature as they have deposed only qua proceedings done by him during the investigation of this case. Further PW2 retired Inspector Bhinderpal Singh and PW3 ASI Surjan Singh did not turn up for the their cross-examination. As such, their testimony being incomplete cannot be read into evidence. So, except these star witnesses PW-1 Gurmukh Singh, PW4 Azad Singh and PW5 Amandeep Singh, no other person had witnessed the alleged occurrence and remaining witnesses cited by prosecution are just formal witnesses and they had not witnessed the alleged occurrence. Thus whole case of prosecution has fallen flat on the ground when these star witnesses of prosecution have not supported the case of prosecution. So it is not at all proved beyond all shadows of doubts that accused facing the trial cheated the complainant while inducing him to deliver him an amount of Rs.12 lacs on the pretext of

procuring job in Railways for Amandeep Singh or he had prepared forged and false appointment letter and other documents or had committed forgery of valuable security i.e. said appointment letter, medical and fitness certificates of Amandeep Singh for the purpose of cheating or had used the above said forged documents as genuine. Thus it could not prove that accused facing the trial is the perpetrator of crime for which he is charge-sheeted. Hence, prosecution has failed to prove the guilt of accused in any manner.

11. So as a sequel to my above discussion, prosecution has miserably failed to prove the guilt of accused beyond all reasonable doubts by leading cogent and convincing evidence, as such, accused Ashok Kumar facing the trial deserves to be acquitted from the charges framed against him. Accordingly, accused Ashok Kumar is hereby acquitted from the charges framed against him by giving him benefit of doubt. His bail bonds and surety bonds stand discharged. Case property if any, be dealt with as per rules after expiry of period of limitation for filing appeal or revision, or subject to the result of appeal or revision, if any. File be consigned to the Record Room, Samana.

Pronounced:
10.12.2024.
(Varinder Singh, Stenographer-II)

(Rajinder Singh Nagpal),PCS
Sub Divisional Judicial Magistrate,
Samana/ UID NO. PB0330

Present: Ms. Shimpa, APP for the State assisted by Sh. KS Virk,
Advocate counsel for complainant.
Accused on bail with counsel Sh.Hardeep Sharma, Advocate.

No PW is present. Perusal of file shows that charges in this case were framed on 14.11.2019 and thereafter prosecution has availed numerous opportunities to conclude its evidence, but it has failed to do so. No plausible explanation has put forth by learned APP for the State in this regard. So, no further adjournment is justified. Hence, evidence of prosecution is hereby closed by order.

Statement of accused U/s 313 Cr.P.C recorded. Accused opted not to lead any evidence in his defence.

Final arguments heard. Vide my separate detailed judgment of even date, accused Ashok Kumar is acquitted from the charges framed against him as detailed therein. His previous bail bonds and surety bonds stands discharged. Case property if any, be dealt with as per rules after expiry of period of limitation for filing appeal or revision, or subject to the result of appeal or revision, if any. File be consigned to the record room after compliance.

Pronounced:
10.12.2024.
(Varinder Singh, Stenographer-II)

(Rajinder Singh Nagpal),PCS
Sub Divisional Judicial Magistrate,
Samana/ UID NO. PB0330