

KABC030293412011



Presented on : 12.09.2011
Registered on : 12.09.2011
Decided on : 15.04.2025
Duration : 13y/07m/03days

**IN THE COURT OF XLI ADDL. CHIEF JUDICIAL
MAGISTRATE, AT : BENGALURU
PRESIDED OVER BY TATTANDA DAMAYANTI SOMAYYA**
B.A.,LL.B.,

**XLI Addl. Chief Judicial Magistrate
Bengaluru**

Dated on this 15th day of April 2025

C.C.No.29295/2011

**COMPLAINANT : The State by
Bengaluru Cantonment Railway P.S**

-V/s-

**ACCUSED : 1. K.Rashid Babu - Split up in
CC No.18426/2023**

2. Rangaswamy @ Ranga
S/o. Narasappa, Aged 23 years,
R/at. Dandipura, Kodigehalli,
Madhugiri Taluk, Tumkur District.

**3. Balakrishna Reddy @ Balu-
Split up in CC No.29780/2019**

4. Rizwan Khan @ Rizwan
S/o. Mohammed, Aged 38 years,
R/at. Rehamathpur,
Near Railway station
Hindupur Town, Anantapur District.

**5. Sudhi – Split up in CC No.
18426/2023**

6. Aman

S/o. Pyaru, Aged 27 years,
R/at. Rehamathpur,
Near Railway station,
Hindupur Town, Anantapur District.

7. Noor Basha @ Noor

S/o. S.Wali, Aged 20 years,
R/at. Rehamathpur, LIC Road,
Near Railway Station,
Hindupur Town, Anantapur District.

8. Noorullah

S/o. Saleh, Aged 21 years,
R/at. Behind Thondebhavi PS,
Gowribidanur Taluk,
Chikkaballapur District.

Date of Commission of offence	26.10.2010
Date of report	27.10.2010
Date of arrest	27.10.2010
Name of the complainant	O.Rajappa
Date of commencement of recording Evidence	24.07.2014
Date of closing evidence	20.09.2024
Offences complained of	U/Sec.420, 467, 468, 470 of IPC and Sec.114[1] of Railways Act.
State Represented by	Senior Asst.Public Prosecutor
Accused Represented by	Sri.Altaf Ahmed -Advocate.

Opinion of the Judge	As per final orders
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J U D G M E N T
[Delivered on 15.04.2025]

The PSI of Bengaluru Cantonment Railway PS has filed charge sheet against the accused for the offences punishable U/Sec.420, 467, 468, 470 of IPC and Sec.114[1] of Railways Act.

2. **Brief facts of prosecution case is as follows:**

On 26.10.2010 at 7.45p.m., the accused No.1 created false documents by forging the signatures of CW.9 to cheat railway department for the purpose of selling eatables to the passengers in trains at plat form No.2 of Bengaluru cantonment railway station, to make money by illegal means, the accused No.2 to 8 used forged documents as genuine documents, knowing fully well that, they are forged documents and thereby cheated railway department. On the basis of written information given by CW.1, the Bengaluru Cantonment Railway police have registered this case against the accused in Cr.No.51/2010.

3. On 27.10.2010, the accused No.1 to 7 were arrested and produced before the Court. As per order dated: 02.11.2010, they

got enlarged themselves on bail. On 03.05.2011, the accused No.8 was arrested and produced before the court. As per order dated: 11.05.2011, the accused No.8 was enlarged on bail.

4. After the investigation, the IO filed charge sheet against the accused. This Court has taken cognizance of the offences punishable U/Sec.420, 467, 468, 470 of IPC and Sec.114[1] of Railways Act. This Court complied with Sec.207 of Cr.P.C., and furnished charge sheet copies to the accused.

5. As, the accused No.1, 3 and 5 are continuously absent, the case against them was split up and separate CC No.29780/2019 and CC No.18426/2023 came to be registered against them.

6. This Court heard both the parties. As there were no grounds to discharge the accused No.2, 4, 6, 7 and 8, this Court framed charges for the offences punishable U/Sec.420, 467, 468, 470 r/w.34 of IPC and Sec.114[1] of Railways Act against them. The accused No.2, 4, 6, 7 and 8 did not plead guilty. They claimed to be tried.

7. In order to prove its case, the prosecution got examined 7 witnesses as PW.1 to 7, got marked Ex.P.1 to 12 documents and MO.1 to 11. After completion of prosecution side evidence, the statements of the accused No. 2, 4, 6 ,7 and 8 were recorded U/Sec.313 of Cr.P.C., wherein they denied the incriminating evidence led against them. They did not choose to lead their defense evidence.

8. I have heard the arguments of Senior APP and Sri. AA Advocate.

9. On the basis of allegations made against accused No.2, 4, 6, 7 and 8 , the following points arise for my consideration:

1. Whether the prosecution proves beyond all reasonable doubt that, the accused No.1 created false documents on 26.10.2010 at 7.45p.m., by forging the signatures of CW.9 for the purpose of selling eatables to the passengers in trains at plat form No.2 of Bengaluru cantonment railway station to make money by illegal means and thereby he has committed the offence punishable U/Sec.467 r/w.34 of IPC?

2. Whether the prosecution proves beyond all reasonable doubt that, on the aforesaid date, time and place, the accused No.1 created false documents to cheat the railway department and thereby he has committed the offence punishable U/Sec.468 r/w.34 of IPC?

3. Whether the prosecution proves beyond all reasonable doubt that, on the aforesaid date, time and place, the accused No.2 to 8 used forged documents as genuine documents, knowing fully well that, they are forged documents and thereby they have committed the offence punishable U/Sec.471 r/w.34 of IPC?

4. Whether the prosecution proves beyond all reasonable doubt that, on the aforesaid date, time and place, the accused No.2, 4, 6, 7 and 8 along with other accused cheated railway department and thereby they have committed the offence punishable U/Sec.420 r/w.34 of IPC and Sec.114 of Railways Act?

5. What order?

10. My answers to the above points are as under:

Point No.1 : In Negative

Point No.2 : In Negative

Point No.3 : In Negative

Point No.4 : In Negative

Point No.5 : As per final orders for the following:

REASONS

Point No.1 to 4:As all these points are interrelated, I take all the four points together for common discussion to avoid repetition.

11. The burden is casted on the prosecution to prove that, the accused No.1 created false documents on 26.10.2010 at 7.45p.m., by forging the signatures of CW.9 for the purpose of selling eatables to the passengers in trains at plat form No.2 of Bengaluru cantonment railway station, to make money by illegal means, to cheat the railway department, the accused No.2 to 8 used forged documents as genuine documents, knowing fully well that, they are forged documents and thereby cheated railway department.

12. In order to prove its case, the prosecution got examined the complainant/CW.1 as PW.1, eye witness/CW.2 as PW.2, mahazer witness/CW.5 as PW.3, circumstantial witness/CW.12

as PW.4, CW.11 as PW.5, CW.13 as PW.6 and investigating officer/CW.17 as PW.7 and got marked written information/complaint as Ex.P.1, identity cards of accused No.1 as Ex.P.2 to 4, seizure mahazar as Ex.P.5, seizure mahazer as Ex.P.6, portion of the statement of PW.3 as Ex.P.7, forged letter dated: 18.11.2010 as Ex.P.8, letter having the signature of M. Vijaydas as Ex.P.9, report given by PW.5 as Ex.P.10, letter of PW.6 as Ex.P.11, copy of forged letter dated: 15.10.2010 as Ex.P.12, steel cans 3 in numbers as MO.1 to 3, plastic containers 4 in numbers as MO.4 to 7, biscuit packet as MO.8, cloth bag containing tea dip bag as MO.9, cloth bag containing plastic spoons as MO.10 and cool drinks storage box as MO.11.

13. CW.1/PW.1 -O.Rajappa in his evidence has stated that, while he was working as Asst. Divisional Commercial Manager at the office of DRM on 26.10.2011 he gave Ex.P.1 complaint to the police. On that day at 7.45p.m., he visited plat form No.2 of Bengaluru Cantonment railway station along with RPF staff for special duty to inspect the catering work, in view of the letter

received from railway port, New Delhi. They were inspecting the caterers, who had stored food at the platform. He found some eatable items at the platform. There were 7 persons. On enquiry, they showed their identity cards and permission letter issued by IRCTC to sell eatables in the trains. The identity cards were having the signatures of the persons, who were not belonging to railway department. On suspicion, he took them to platform No.1 with the assistance of RPF staff. They were trying to sell the eatables in train No.652930. Those documents were bearing the signatures of Mohandas or Vijaydas. On enquiry, he learnt that, those documents bear the forged signatures. By collecting their names, addresses and statements, he handed over them to Bengaluru Cantonment railway police and gave Ex.P.1 complaint. He produced all the articles including eatables before the IO by preparing a list. He can identify one or two accused. He cannot identify others as, the incident was occurred long back. Those persons produced Ex.P.2 to 4 identity cards, which were not issued by their department. He has identified MO.1 to 11.

14. CW.2/PW.2-A.K.Tiwari, in his evidence has stated that, while he was working as Inspector in RPF at Bengaluru Cantonment Railway station on 26.10.2010 the CW.1 asked him to assist to platform No.2. At 7.45p.m., 7 vendors were bringing food items to sell at the railway platform. On enquiry, those persons showed a letter issued by one A.M.Vijaydas, Asst. Manager, TSV in favour of A.K.Caterers and traders. Along with that letter, they produced an attendance register, police verification certificate issued by Cantonment Railway police station in favour of 10 vendors, along with eligible certificate. On verification, the CW.1 told that, those documents are fictitious documents. CW.1/O.Rajappa seized all eatables by drawing Ex.P.5 mahazer at 8.30p.m. It bears his signature. 16 articles were seized under Ex.P.5. MO.1 to 11 and Ex.P.12 document were seized under Ex.P.5 mahazer.

15. CW.5/PW.3-Ramu, in his evidence has stated that, Ex.P.6 mahazer bears his signature. Bengaluru Cantonment railway police have taken his signature to that document. He does not

know the reason as to why his signature was taken to that document. He has not seen the accused earlier. He has not given any statement to the police.

16. Cw.12/PW.4-B.Ramesh in his evidence has stated that, when he was working as Senior Divisional Commercial Manager at Indian Railway Catering & Tourism Corporation Ltd., on 04.11.2010, he received a letter from Senior Divisional Commercial Manager, Railway Department, Bengaluru, wherein he was asked to submit a report regarding the genuineness of the letter produced before Bengaluru Cantonment railway police station said to be issued by Vijaydas permitting the sale of eatables in Udyan express Bengaluru-Dharmavaram train bearing No.652930. That letter was accompanied by a copy of letter dated: 04.11.2010 written on the letter head of Indian railways, which was said to be issued by TSB board tourism corporation, wherein Rasheed Babu was named as the manager of the corporation. Accordingly, on 18.11.2010, he gave Ex.P.8 report stating that Vijaydas is not working in the office of IRCTC, Bengaluru, he I

working as Asst. Manager at the Zonal office, Chennai, there is no post in existence in the designation of manager of TSB, the signature therein is a forged signature of Vijaydas. Moreover, he enclosed Ex.P.9 letter dated: 08.11.2010 to Ex.P.8 having the original signature of Vijaydas.

17. CW.11/PW.5-V.N.Kulkarni, in his evidence has stated that, when he was working as head constable at Bengaluru Cantonment railway police station on 17.10.2010, the CW.16 asked him to serve notice to the proprietor of M/s. M.K.Rove Caters & Traders, #22, Lakshmi building, TCM Rayan road, Bengaluru. When he visited the area, he learnt that, the said address was not correct. At # 22, the owner of Sathya Sai agency was available. There was no building by name Lakshmi thereon. He did not find the address and hence, he gave Ex.P.10 report to CW.16.

18. CW.13/PW.6-K.Suresh Chandra, in his evidence has stated that, when he was working as catering manager at IRCTC, he received a letter dated:26.10.2010 from deputy CCM, wherein he was asked as to how Vijaydas makes his signature. Hence, on

22.11.2010 he collected the signature of Vijaydas and sent Ex.P.11 to the Inspector of Bengaluru Cantonment railway station. The signature marked as S2 thereon is the signature of Vijaydas.

19. CW.17/PW.7-Bhaskar M., in his evidence has stated that, when he was working as PSI at Bengaluru Cantonment railway station, on 25.05.2011 he took the investigation of this case. On 09.08.2011 he recorded the statement of CW.10. By completing the investigation, he filed charge sheet against the accused.

20. On the basis of Ex.P.1 written information given by PW.1, the Bengaluru Cantonment railway police have registered this case, investigated the matter and filed charge sheet against the accused. In Ex.P.1, the PW.1 has stated that, the accused by name Ranga, Balu, Rizwan, Sudhi, Aman, Noor Basha and Noorulla were possessing fictitious documents i.e., letter dated: 15.10.2010 said to be issued by M.Vijaydas, professional qualification letter, police certificates, attendance register of 10 staffs, catering items such as coffee, drinking water, rice pulav, biscuits, plastic crates, puri packets, paper cups, red colored coca-cola plastic box, potato

chips and plastic spoons. As they were unauthorized vendors, all those items were taken to his custody, took the vendors to his custody and handed over them to Bengaluru Cantonment railway police for further action.

21. The prosecution contends that, those eatables including articles were seized by drawing Ex.P.5 mahazer in between 2a.m. to 3a.m of 27.10.2010. That mahazer bears the LTM.s of accused No.1, 2, 4 to 7 and signature of Balakrishna Reddy/accused No.3. The accused No.2, 4, 6, 7 and 8 have affixed their signatures to the statements recorded by the Court U/Sec.313 of Cr.P.C. If accused No.2, 4, 6, 7 and 8 can make their signatures, why their signatures were not obtained to Ex.P.5? Why their LTM's were taken to Ex.P.5 mahazer? This makes the Court to doubt the correctness of the contents of Ex.P.5.

22. The IO did not collect LTM's of accused No.1 to 8 to send it to FSL for comparison of LTM's found on Ex.P.5 mahazer. In order to ascertain the correctness of the allegations made in Ex.P.1 and Ex.P.5, this Court had issued repeated summon, non-bailable

warrants and proclamations against CW.3, 4, 6 to 10, 14 to 16. In spite of it, the prosecution has not secured their presence. By noting the absence of the witnesses and age of the case, this Court dropped CW.3, 4, 6 to 10, 14 to 16 from examination.

23. The PW.1 being the complainant cum eye witness did not identify the accused. The PW.1 stated that, he can identify one or two accused and he cannot identify others as the incident was occurred very long back. The PW.1 pleaded ignorance when he was asked the name of the accused who was in possession of which item. MO.1 to 11 does not bear the label containing the signatures of PW.1 and pancha witnesses to hold that, they were seized in their presence by drawing Ex.P.5 mahazer.

24. The PW.2 claims to be an eye witness, who accompanied PW.1 for verification of food items on 26.10.2010 at platform No.2 of Bengaluru Cantonment railway police station. The PW.2 deposed about 7 vendors possessing eatables on 26.10.2010 at platform No.2 of Bengaluru cantonment railway station and possessing fake documents. He is one of the signatories to Ex.P.5

mahazer. But, he did not identify the offenders, who were possessing eatables and fake documents. He pleaded ignorance when he was asked the name of the person, who produced Ex.P.12 before PW.1. He did not name the offenders/accused who were allegedly possessing fake documents and eatables.

25. The PW.2 in his cross examination stated that, the incident was occurred at platform No.2 and Ex.P.5 mahazer was drawn at plat form No.1. He too admits that, many passengers were available at the spot, while drawing Ex.P.5 mahazer. But, no independent witnesses appeared before the Court to substantiate the contents of Ex.P.5 and the version of PW.1 and 2. Ex.P.6 is the mahazer under which the IO seized the documents bearing the signatures of CW.9/Vijaydas.

26. The PW.3 is one of the signatories to Ex.P.6. According to PW.3, he has not seen the accused earlier and he does not know why the Bengaluru cantonment railway police took his signature to Ex.P.6. The PW.3 denied that, the police have seized documents in his presence by drawing Ex.P.6 mahazer. Ex.P.12 is the so-

called forged document produced by the accused, which was seized under Ex.P.5 mahazer.

27. The prosecution contends that, the accused No.1 forged the signature of M.Vijaydas/CW.9 and created Ex.P.12 document to cheat railway department to make money. In spite of issuance of repeated summons, non-bailable warrants and proclamations, the prosecution has not secured the presence of CW.9 and hence, he was dropped from examination. Ex.P.11 bears the specimen signatures of CW.9/M.Vijaydas.

28. The disputed signature found on Ex.P.12 is marked as Q.1 by the IO. The signatures of CW.9 found on Ex.P.9 is marked as S.1 and his signatures found on Ex.P.11 are marked as S2 and 3 by the IO. The CW.14 is the hand writing expert, who gave her report by examining disputed and admitted signatures of CW.9/Vijaydas.

29. The report given by the hand writing expert/CW.14 is not marked as an exhibit. The CW.15 is the police officer, who registered the case and partly investigated the matter. In spite of

issuance of repeated processes, the CW.15 did not care to appear before the Court to depose regarding the mode of investigation conducted by him.

30. The CW.14 in her report has opined that “the person who wrote the standard signatures marked as S1 to S3 did not write the questioned signature marked as Q.1. It means that the signature found on Ex.P.12 is a forged signature of CW.9/Vijaydas. The CW.15 and 16 did not appear before the Court to say that, they had collected specimen signatures of accused No.1 to 8 so as to send them to hand writing expert at FSL for comparison of their signature with Q1 signature.

31. The CW.14 being the hand writing expert did not examine the specimen signatures of accused No.1 to 8 before submitting her report regarding the genuineness of Q1 signature found on Ex.P.12. The IO did not produce professional qualification letter, police certificates and attendance register of 10 staffs referred in Ex.P.1 before the Court, which were allegedly seized under Ex.P.5. The CW.9 did not appear before the Court to speak about

the genuineness of the signatures found on Ex.P.9, 11 and Ex.P.12. Though the prosecution has examined 7 witnesses on its behalf, no independent witnesses appeared before the Court to say that, they have seen the police seizing MO.1 to 11 and other eatable items by drawing Ex.P.5 mahazer from the accused.

32. There is no convincing evidence on record to hold that, the accused forged the signature of CW.9 on Ex.P.12 letter to make unlawful gain and to cheat railway department. The hand writing expert did not give conclusive report regarding the author of Q1 signature. The IO did not produce convincing evidence before the Court to explain, where Ex.P.12 was prepared and who is the author of Q1 signature.

33. The evidence led by PW.1 to 7 is no way helpful to the prosecution to hold the accused No.2, 4, 6, 7 and 8 guilty of the offences charged against them. The prosecution has not produced convincing evidence before the Court to connect these accused with the alleged crime. From the evidence led by PW.1 to 7, the

charges levelled against the accused No.2, 4, 6, 7 and 8 are not proved.

34. Thus, the prosecution has failed to prove that, the accused No.1 created false documents on 26.10.2010 at 7.45p.m., by forging the signatures of CW.9 for the purpose of selling eatables to the passengers in trains at plat form No.2 of Bengaluru cantonment railway station, to make money by illegal means, to cheat the railway department, the accused No.2 to 8 used forged documents as genuine documents, knowing fully well that, they are forged documents and thereby cheated railway department. In such circumstances, I answer point No.1 to 4 in Negative.

Point No.5: For the aforesaid reasons, I proceed to pass the following:

ORDER

By exercising the powers conferred U/Sec.248[1] of Cr.P.C., the accused No.2, 4, 6, 7 and 8 are acquitted from the charges of Sec.420, 467, 468, 471 r/w.34 of IPC and Sec.114[1] of Railways Act.

The bail bonds executed by the accused No.2, 4, 6, 7 and 8 stands cancelled.

The bonds executed by the accused No. 2, 4, 6, 7 and 8 U/Sec.437[A] of Cr.P.C., will be in force for a period of 6 months.

The property seized under PF No.22/2010- [PR No.6/2014] ie., MO.1 to 11 are ordered to be kept intact till the disposal of CC No.29780/2019 and CC No.18426/2023 registered against accused No.1, 3 and 5.

15.04.2025

**[TATTANDA DAMAYANTI SOMAYYA]
XLI A.C.J.M., BENGALURU**

ANNEXURE**LIST OF WITNESSES EXAMINED FOR THE PROSECUTION:**

PW.1	:	O.Rajappa
PW.2	:	A.K.Tiwari
PW.3	:	Ramu
PW.4	:	B.Ramesh
PW.5	:	V.N.Kulkarni
PW.6	:	K.Suresh Chandra
PW.7	:	Bhaskar.M

LIST OF DOCUMENTS MARKED FOR THE PROSECUTION:

Ex.P.1	:	Written information/ Complaint
Ex.P.1[a]	:	Signature of PW.1
Ex.P.2 to 4	:	3 identity cards of accused No.1
Ex.P.5	:	Seizure Mahazar
Ex.P.5[a]	:	Signature of PW.2
Ex.P.6	:	Seizure Mahazar
Ex.P.6[a]	:	Signature of PW.3
Ex.P.7	:	Portion of statement of PW.3
Ex.P.8	:	Letter dated :18.11.2010
Ex.P.8[a]	:	Signature of PW.4
Ex.P.9	:	Letter dated :08.11.2010
Ex.P.10	:	Report
Ex.P.10[a]	:	Signature of PW.5
Ex.P.11	:	Letter dated :22.11.2010

Ex.P.11[a] : Signature of PW.6

Ex.P.12 : Forged document dated: 15.10.2010

LIST OF MO'S MARKED FOR THE PROSECUTION:

MO.1 to 3 : Steel cans 3 in numbers

MO.4 to 7 : Plastic containers 4 in numbers

MO.8 : Biscuit packet

MO.9 : Cloth bag containing tea dip bags

MO.10 : Cloth bag containing plastic spoons

MO.11 : Plastic storage box of cool drinks

LIST OF WITNESSES EXAMINED FOR THE ACCUSED :

NIL

LIST OF DOCUMENTS MARKED FOR THE ACCUSED :

Nil

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Dictated on : 09.04.2025

Transcribed on : 09.04.2025

checked on : 14.04.2025

Signed on : 15.04.2025

[TATTANDA DAMAYANTI SOMAYYA]
XLI A.C.J.M., BENGALURU

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