

**IN THE COURT OF SACHIN KUMAR, HCS (J), JUDICIAL
MAGISTRATE IST CLASS, YAMUNANAGAR AT JAGADHRI.**

Criminal Case No:- 130
Date of institution:- 16.4.10/12.5.15
Date of decision:- 13.8.15

State	Versus	1.Mangat Deen son of Chajju Deen r/o village Badanpuri, PS Chhappar, District Yamuna Nagar 2. Salman son of Jangsher r/o village Daulatpur, PS Sadar Yamuna Nagar 3. Rajiv Kumar son of Joginder Singh r/o village Panjeto PS Sadar Jagadhri, District Yamuna Nagar 4.Narinder Pal son of Sant Ram r/o village Raipur, Sadar Yamuna Nagar
-------	--------	--

Case F.I.R. No: 177 dated 13.3.10
Under sections:- 419,420 IPC
Police Station:- City Yamuna Nagar

..... Accused.

Present : Learned Assistant Public Prosecutor for State.
Accused Rajiv on bail with Shri Raj Pal Singh, Adv.
Remaining accused on bail with Shri S.P Dhanda, Adv.

JUDGMENT:

The above named accused has been sent up to stand trial by Station
House Officer, Police Station City Yamuna Nagar for the commission of

offence punishable under sections 419,420 IPC.

2. The case of the prosecution was launched on the complaint of complainant Centre Superintendent ,SGNKSSS Yamuna Nagar on the allegations that from this exam center Yamuna Nagar 16 SG Khalsa Sr. Secondary School, Yamuna Nagar in the evening Session, when examination of re appear of first semester class 10th was going on, two students first from room no.3 appearing for roll no. 0917211257 Salman , and second from roll no. 1017211809 Mangat Deen, were searched with roll no slips which were found duplicate.As the enquiry started they ran away. Police employees chased them but they succeeded in escaping. With these submissions, a prayer to take legal action against the accused has been made.

3 On the basis of complaint, FIR was registered against the accused, Investigation was conducted, accused were arrested and after completion of formalities of investigation, challan was presented in the court.

4 Copies of challan were supplied to the accused free of cost as envisaged under Section 207 Cr.P.C.

5. After perusing the final report sent by the police under Section 173 (2) Cr.P.C. and the documents referred therein, prima facie case under Sections 419,420 IPC was found to be made out against the accused and they were charge-sheeted accordingly to which they pleaded not guilty and claimed trial,

6. In order to bring home the guilt of the accused the prosecution has examined PW1 to PW7. Thereafter, evidence of prosecution was closed by

court order.

7. The evidence led by the prosecution in brief is as follows:-

PW1 Prithvi Saini is the complainant .He has reiterated the contents of complaint.He proved his application Ex PA, first page of answer sheet Ex PB, attendance chart Ex PC, roll no slip Ex PD , front page of answer sheet Ex PE, slip Ex PG which were taken into possession by the police vide memo Ex PH.

PW2 Prem Pal stated that he was posted as Assistant Suptd on 13.3.10 in the school.He stated that he does not remember in which room his duty was .He stated that one boy from his room ran away during examination but he does not identify him. He was declared hostile on the request of learned APP

PW3 ASI Ashwani Kumar has proved the disclosure statement of accused as Ex PW3/A and Ex PW3/B.

PW4 Smt. Saroj Bala stated that on 13.3.10 he was posted as supervisor in Khalsa Senior Secondary school and she was on duty in room no.3 where Deputy Superintendent came with signature sheet. One boy told his name as Salman and when he was asked about his mother's name he cannot give answer and ran away with paper sheet. She further proved the answer sheet Ex PG2 which was taken into police possession vide memo Ex PH.

PW5 ASI Devinder Singh has proved the complaint Ex PA on which formal FIR Ex PW5/A was registered and endorsement Ex PW5/B was

made. He further proved the record Ex PB to Ex PG which was taken into police possession vide memo Ex PH. He further proved the disclosure statement of accused as Ex PW3/A, Ex PW3/B, Ex PW5/C and Ex PW5/D

PW6 Ratan Singh has proved the answers sheet Roll no. Ex PB to Ex PD.

PW7 ASI Sukhwinder Singh proved the disclosure statement of accused as Ex PW3/A to Ex PW3/B and Ex PW5/C to Ex PW5/D.

Thereafter, learned Assistant Public Prosecutor closed the prosecution evidence by making a separate statement before the Court.

8. Statement of accused under section 313 Cr.P.C was recorded wherein he denied the allegations levelled against him and pleaded his innocence and false implication and opted to lead evidence in defence.

9. From the arguments of Ld. counsel of both the parties and material on record. The question for determination before me is:-

Whether the prosecution has been successful to prove that on 13.3.2010 accused Rajiv and Narinder impersonated themselves as Mangal Deen and Salman respectively for the purpose of appearing in matriculation examination of Haryana open board and all the accused cheated the center staff of G.S Khalsa Senior secondary School to cause appearance Rajiv and Narinder in matriculation examination in their place and thereby committed an offence punishable under Section 419,420 ?

10 I have heard learned Assistant Public Prosecutor for the State and ld.

defence counsel and have gone through the case file very carefully.

11. Learned APP for the state has argued that by examining as many as seven witnesses the prosecution has been successfully proved the case against the accused beyond reasonable doubt . He has further argued that the cheating and fraud played by the accused on complainant is duly proved on record and he has prayed for conviction of the accused.

12. On the other hand learned counsel for the defence has argued that in the present case prosecution has been failed to prove its case against the accused beyond all shadows of reasonable doubt and there is nothing on record to connect the accused with offence. With these submissions he has prayed for acquittal of accused.

13 Giving my thoughtful consideration to the arguments advanced by ld. counsel of both the parties and having considered the material on record. I conclude that prosecution has miserably been failed to prove the case beyond reasonable doubt against the accused and accused are entitled for acquittal. The reasons for arriving on this conclusion have been discussed below:-

14 The accused Rajiv and Narinder have been charged under section 419 IPC and accused Mangal Deen and Salman have been charged under section 420 IPC. It is the allegation against accused Rajiv and Narinder that they impersonated them as Mangal Deen and Salman for the purpose of appearing in matriculation examination .It is the allegation accused Mangal Deen and Salman that they dishonestly cheated the centre

staff of G.S Khalsa Senior Secondary School Yamuna Nagar to forge appearance of Rajiv and Narinder in their place.

To prove the allegations , the prosecution has got examined as many as seven witnesses in total. PW1 Prithvi Saini , was on duty on 13.3.10 .He in his cross examination has stated that his duty was not in that room .He has also stated that he has not brought the original roll number slip of the students. He has admitted that Ex PG roll number slip bears photo of Mangal Deen and Ex PD copy of roll number slip photo of Salman. He has admitted that Mangal Deen was original student who gave the paper and Salman was the original student appearing in the examination. He has admitted that they did not send the answer sheet for comparing of handwriting. Thus, there is nothing in his testimony which may implicate the accused with the alleged offence. PW2 Prem Pal is Assistant Superintendent , Khalsa Sr. Secondary School who has become hostile and has not supported the case of the prosecution. He has stated that he has read and understood his statement Ex PW2/A and he never gave such statement to police. PW3 Ashwani Kumar ,PW5 Devinder and PW7 Sukhwinder are police officials. PW4 Saroj Bala was posted as supervisor on 13.3.10 in Khalsa Sr. Secondary School. She in her cross examination stated that she does not know that what proceedings was done in another room. She has stated that she does not know what is written in memo Ex PX.She does not know whether Prithvi Saini kept the answer sheet of the person who ran away from her room after taking the copy. She has stated that she does not know the accused nor

identify them. She has stated that she has never seen the accused person till today. Thus, there is also discrepancies in her version. PW6 Ratan Singh is dealing clerk . He has stated in his cross examination that roll number slip brought by him has no photo . The record is photo copy and not the original. He has stated that on the answer sheet neither the signatures were obtained in his presence nor anything was written in his presence. He has admitted that the student enters in the centre after his verification by the officer on duty. He has stated that he has no personal knowledge about the case.

15 Thus, it is clear that none of the prosecution witnesses could stand in his cross examination. It is not proved on record that accused Rajiv and Narinder were appearing on behalf of Salman and Mangat Deen in the examination. Thus, neither the offence of impersonation is proved nor the offence of cheating . The identity of the accused Rajiv and Narinder is not proved on record and they are entitled for acquittal. There is nothing on record to prove that accused Salman and Mangal Deen cheated the staff of center. Thus, it is concluded that prosecution has been failed to bring home the guilt of the accused persons and the accused are entitled for acquittal.

16 It is the cardinal principal of law that even ten guilty persons escape not a single innocent person be convicted. If there are two possibilities from which one goes against the accused and another in his favour then accused is always entitled to take the benefit of doubt. Criminal case cannot be decided mere on the basis of probabilities and possibilities. The mode of proof in criminal cases is always stricter than in the civil cases. For conviction the

prosecution has not only prove the possibilities from which the inference may be drawn that accused has committed the offence but it has to prove its case beyond all shadows of reasonable doubt.

17 In view of the above discussion, I conclude that prosecution has failed to bring home the guilt of accused beyond all shadows of reasonable doubt. Therefore, the accused are acquitted of the charge leveled against them. Accused are on bail. Their bail and surety bonds stand discharged. They are directed to furnish the surety bonds in the sum of Rs. 20,000/- under Section 437-A of Cr.P.C. which will remain in force for six months from the date of present order. Requisite bonds furnished, accepted and attested. Case property be disposed of as per rules. File be consigned to the record room after due compliance.

Announced in open court:
Dated: 13.8.15.

(Sachin Kumar)
Judicial Magistrate First Class,
Yamuna Nagar at Jagadhri.

Note: Each page of this judgment have been
checked and signed by me.

(Sachin Kumar)
JMJC/13.8.15

Present : Learned Assistant Public Prosecutor for State.
Accused Rajiv on bail with Shri Raj Pal Singh, Adv.
Remaining accused on bail with Shri S.P Dhanda, Adv.

No defence evidence is present and same is closed . Arguments heard. Vide my separate judgment of even date, the accused are acquitted of the charges levelled against them. They are on bail .Their bail bonds,surety bonds stand discharged. They are directed to furnish the surety bonds in the sum of Rs. 20,000/- under Section 437-A of Cr.P.C. which will remain in force for six months from the date of present order. Requisite bonds furnished, accepted and attested. Case property be disposed of as per rules. File be consigned to the record room after due compliance.

Announced in open Court:
13.8.15

Sachin Kumar,
Judicial Magistrate Ist Class,
Yamuna Nagar at Jagadhri.