

IN THE COURT OF SH. KUNAL LAMBA, JUDICIAL
MAGISTRATE, FIRST CLASS, RUPNAGAR.

CNR No.	PBRO03-001112-2018
Date of Institution	02.04.2018
CIS. No.	CHI-119-2018
Date of Decision	30.01.2023

State

Versus

Sukhdev Singh son of Nachattar Singh resident of Village Bara, PS Singh
Bhagwantpur, District Rupnagar.

.....Accused

FIR No.	83 dated 09.08.2017
Under Sections	420, 465, 467, 468 of IPC
Police Station	Sadar Rupnagar

Present: Dr. Amarjit Kaur, APP for the State.
Accused along with counsel Sh. Rajinder Singh Sohi, Advocate.

JUDGMENT:

1. The above named accused persons have been sent by the In-charge,
Police Station Singh Bhagwantpur, Rupnagar for facing trial for the offences
under Sections 420, 465, 467, 468 of IPC.

2. Brief facts of the prosecution case are that on 09.08.2017, ASI Rakeshwinder Singh along with CT Rakesh Raj No. 308/R, CT Charanjit Singh and CT Balvir Singh No. 333/R were present near Tax-barrier, Ghanauli on Government car Balero bearing No. PB-12Y-4935, in regard to patrolling and checking of suspicious persons. ASI Rakeshwinder Singh received information that Sukhdev Singh son of Nachattar Singh has installed an engine of other truck, in his truck LP-1612 bearing No. PB-12F-9030, and has tampered the engine number of the same. At the same time, Sukhdev Singh was driving the truck from village Daburji and was coming towards Rupnagar side and it was informed that if raid be conducted, Sukhdev Singh could be apprehended along with the said truck. On finding the information reliable, ASI Rakeshwinder Singh sent a ruqa through CT Balwinder Singh and got the case registered against Sukhdev Singh. By installing barricades at T-point Malakpur, the truck bearing No. PB-12F-9030, along with the accused Sukhdev Singh were apprehended and interrogated. The above-said truck along with the photocopy of its RC and bill, and 180 bags of cement were taken into police possession vide recovery memo. Site plan of the spot was prepared. The accused Sukhdev Singh was arrested. During investigation, the accused Sukhdev Singh disclosed that he was having one another truck bearing No. PB-12B-1420, which he had purchased from Ranjit Singh son of Joga Singh. Since, the body and chassis number of the said truck were deteriorated, he had installed the engine of the said truck in the truck bearing No. PB-12F-9030 by tampering the engine number of the former truck. The affidavit produced by the accused Sukhdev

Singh regarding the purchase of the truck bearing No. PB-12B-1420 was taken into police possession. On 24.10.2017, mechanic report of the truck bearing No. PB-12F-9030 was got prepared. Statements of the witnesses were recorded. Ultimately, on completion of investigation, challan was presented in the Court for trial against the accused.

3. On presentation of challan, its copy as per the provision under Section 207 of CrPC, was supplied to the accused free of cost.

4. Vide order dated 17.11.2018, the application for discharge of the accused, under sections 465, 467 and 468 IPC, was allowed. Thereafter, on finding a prima-facie case under Section 420 IPC, charge was framed against the accused to which, the accused pleaded not guilty and claimed trial. Thereafter, the case was fixed for prosecution evidence.

5. In order to prove its case, the prosecution has got examined ASI Rakesh Raj as PW-1. He has reiterated the facts of the case of the prosecution and has proved the recovery memo of the truck taken into possession along with photocopy of RC as Ex.PW1/A. He has also proved the arrest memo of the accused as Ex.PW1/B as well as his personal search memo Ex.PW1/C. He had also seen the case property i.e. truck make LP-1612 bearing No. PB-12F-9030 which is Ex.MO1.

6. Prosecution has further examined Brij Mohan as PW-2, who had deposed that he clicked 12 photographs of the truck bearing No. PB-12F-9030, loaded with cement. He has proved the photographs Ex.P1 to Ex.P12.

7. Prosecution has further examined Jasvir Singh who had deposed

that he had sold the truck bearing No. PB-12B-1420 to Sukhdev Singh son of Nachattar Singh.

8. Prosecution has further examined Jagdish Singh as PW-4. He has proved the RC of the truck bearing No. PB-12F-9030 as Ex.PW4/A, screening report Ex.PW4/B and screening report of the truck bearing No. PB-12B-1420 as Ex.PW4/C.

9. Prosecution has further examined Sh. Chetan Kumar Gupta, Notary as PW-5 who has deposed that Sukhdev Singh son of Nachattar Singh got attested one affidavit from him, which he proved as Mark A.

10. Prosecution has further examined Sanjiv Kumar Passi as PW-6. He has proved the bill Ex.PW6/A issued by him and deposed that the 180 bags of cement were loaded in truck bearing No. PB-12F-9030.

11. Prosecution has further examined Sukhraj Mattu as PW-7 who had brought the summoned record i.e. computerized screening report of the truck bearing No. PB-12F-9030. He has proved the screening report of the said truck as Ex.PW4/B and original RC of the vehicle Ex.PW4/A.

12. Prosecution has further examined ASI Satnam Singh as PW-7 (again renumbered as PW-7). He has deposed that he had mechanically examined the truck bearing No. PB-12F-9030. He has proved the mechanic report as Ex.PW7/A.

13. Prosecution has further examined Ranjit Singh as PW-8. However, the said witness did not support the case of the prosecution and was declared hostile.

14. Prosecution has further examined ASI Sohan Lal as PW-9 who has stated that on 24.10.2017, he obtained the mechanic report of the truck bearing No. PB-12F-9030. He has proved the said mechanic report which is Ex.PW7/A as well as the affidavit of Ranjit singh which is Mark A.

15. Prosecution has further examined SI Rakeshwinder Singh as PW-10, who reiterated the facts of the case of the prosecution and deposed regarding the manner and sequence of the proceedings conducted in the present case. He has proved the ruqa Ex.PA, FIR Ex.PB, recovery memos Ex.PW1/A to Ex.PW1/C. He has further proved the rough site plan Ex.PW10/A. He even identified the accused present in the Court. Thereafter, the learned APP for the State closed the prosecution evidence vide his separate statement.

16. Thereafter, the statement of the accused under Section 313 Cr.P.C was recorded in which, all the pieces of incriminating evidence were put to the accused, which he stated as incorrect. He stated that he is innocent. He has further stated that a false case has been registered against him by the police on false ground. He further stated that he never changed any engine of the truck in question with the other truck and he has committed no offence at all. The accused intended to lead evidence in his defence. However, no evidence was produced by the accused in his defence and the accused closed his defence evidence vide his separate statement.

17. The learned APP for the State has argued that by bringing on record entire prosecution evidence, the guilt of the accused has been proved beyond reasonable doubt. Except PW-8, all the prosecution witnesses have

supported the case of prosecution and have proved the offences for which the accused has been charged. Hence, argued that the accused should be convicted under the charges framed against him.

18. On the other hand, the learned defence counsel for the accused has vehemently argued that the prosecution has failed to prove its case against the accused. It has been argued that the ingredients of section 420 IPC are not fulfilled in the present case, as there is no dishonest inducement made by the accused. It has been further argued that the truck bearing no. PB-12B-1420 was not taken into possession by the police. Hence, it has been argued that the accused should be acquitted of all the charges framed against him.

19. After hearing the arguments and perusing the file, the following point of determination arises:

A. Whether on 09.08.2017, in the area of T-point village Malakpur, the accused was found in possession of truck bearing No. PB-12F-9030 with the replaced/alterd engine of the truck bearing No. PB-12B-1420 and is liable for the offence under Section 420 IPC?

Determination of point A:

20. The case of the prosecution is that the accused was driving the truck bearing No. PB-12F-9030 by altering, and installing an engine from a different truck bearing No. PB-12B-1420. The prosecution has alleged that by using an engine of a different truck, by tampering the engine number of the same, the accused has committed an offence under Section 420 of IPC.

21. At the very outset, it is relevant to note that as per the facts of the

case of the prosecution the accused was apprehended along with truck bearing No. PB-12F-9030 at T-point village Malakpur by SI Rakeshwinder Singh. However, neither in the challan presented by the police nor in the FIR, this fact has been mentioned that what actual engine number was found on the engine of the truck bearing No. PB-12F-9030, at the time, when he was apprehended by the police. Even, in their evidence, neither PW Rakeshwinder Singh nor PW Rakesh Raj has narrated the engine number which was found written on the engine of the truck bearing No. PB-12F-9030, which was being driven by the accused at the time of his apprehension. It is only the recovery memo Ex.PW1/A, in which, the engine number of the truck bearing No. PB-12F-9030 has been mentioned as CVQ 722743.

22. Now, the prosecution has alleged that the accused had installed the engine of the truck bearing No. PB-12B-1420 in the truck bearing No. PB-12F-9030. It is noteworthy that the truck bearing No. PB-12B-1420 was never taken into possession by the police. To ascertain the fact whether or not, the engine of the truck bearing No. PB-12B-1420 was used and installed in the truck bearing No. PB-12F-9030, it was necessary that the said truck be taken into possession by the police and the same was also required to be mechanically examined. The mechanic report of the truck bearing No. PB-12B-1420 was a relevant and essential piece of evidence, in order to ascertain the fact whether or not, the engine of the said truck was removed. However, the truck bearing No. PB-12B-1420 was neither taken into possession by the police nor the same was mechanically examined. Consequently, there is no evidence to show that the

engine number of the truck bearing no. PB-12B-1420 was actually removed.

23. Further, PW-4 Jagdish Singh has proved the screening report of the truck bearing No. PB-12B-1420 as Ex.PW2/C. A perusal of the same would show that the engine number of the truck bearing No. PB-12B-1420 is 697D23CUQ-722749. Whereas, as per the recovery memo Ex.PW1/A, the number on the engine of the truck bearing No. PB-12F-9030 was found to be mentioned as CVQ-722743. Seemingly, the engine number found mentioned on the engine of the truck bearing No. PB-12F-9030 does not match with the engine number of the truck bearing No. PB-12B-1420.

24. PW-4 Jagdish Singh has further proved the RC of the truck bearing No. PB-12F-9030 which is Ex.PW4/A as well as the screening report of the said vehicle as Ex.PW4/B. From the RC Ex.PW4/A as well as screening report Ex.PW4/B, it has transpired to the Court that the actual engine number of the truck bearing No. PB-12F-9030 is 692D22FU2117951. However, as discussed, the engine number of the truck bearing No. PB-12F-9030 has been mentioned as CVQ-722743, in the recovery memo Ex.PW1/A. The prosecution has alleged that on inspection at the spot, the engine number of the engine of the truck bearing No. PB-12F-9030 was not found in accordance with the engine number mentioned on the RC of the said truck. It is relevant to note that the very first persons to apprehend the accused at the spot were SI Rakeshwinder Singh and ASI Rakesh Raj. Those were the officers, who had checked the engine of the truck bearing No. PB-12F-9030 at the spot. It is pertinent to note that in his evidence, PW-1 ASI Rakesh Raj has stated that the number on the chassis and

engine on the truck was not legible. He has further stated that on inspection, there is no engine number on the said truck's engine. Hence, from evidence of PW-1 ASI Rakesh Raj, it has transpired to the Court that when the truck in question i.e. truck bearing No. PB-12F-9030 was apprehended, its engine number was not legible.

25. To ascertain the fact whether or not, the engine of the truck bearing No. PB-12F-9030 was altered or not, the mechanic report of the said truck was the most relevant and important piece of document. The truck bearing No. PB-12F-9030 was got mechanically examined and PW-7 ASI Satnam Singh has duly proved the mechanic report of the truck bearing No. PB-12F-9030 as Ex.PW7/A. A perusal of the mechanic report Ex.PW7/A would show that it has been reported by ASI Satnam Singh that the engine plate was not fitted on the engine block. Even, in his cross-examination, PW-7 ASI Satnam Singh has stated that at the time of examination, there was no plate on the engine on which the engine number was mentioned. He has further deposed that without seeing the plate, he cannot tell that the engine belongs to the truck or the same is other engine. He has further specifically deposed that he mentioned he truck or the same is other engine. He has further specifically deposed that he mentioned the engine number of the truck in question in his report on the direction of the IO. Further, he has deposed that as the directions of the IO, he mentioned the engine number of truck in question in his report i.e. CUQ722743 but at the time of his inspection, there was no engine number on the engine of the truck in question. Hence, the evidence of PW-7 ASI Satnam Singh as well

as the mechanic report Ex.PW7/A corroborates the statement of PW-1 ASI Rakesh Raj and reveal the fact that there was no engine number on the engine of the truck in question. Apart from the recovery memo Ex.PW1/A, there is no document or evidence on record to show that engine No. CUQ722743 was found written on the engine of the truck bearing No. PB-12F-9030. It is relevant to note that PW-2 has tendered into evidence photographs of the truck, which are Ex.P1 to Ex.P12. The said photographs either show the truck bearing No. PB-12F-9030 or the bags of cement, with which the truck in question was loaded. It is noteworthy that there is no photograph of the engine of the truck bearing No. PB-12F-9030 from which, it could be seen that at the time of apprehending the accused and taking into possession the truck in question, there was a different engine installed in the truck bearing No. PB-12F-9030.

26. Moreover, this court is of the view that in the present case, the ingredients of section 420 IPC are not made out. For determination of the present case, it is pertinent to have a reading of section 420 of the Indian Penal Code, which is as under:

Section 420: *Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.*

Hence, the requisite ingredients for the formation of an offence under Section 420 of the IPC are:

There must be cheating i.e the accused must have deceived someone.

- (i) By the said deception, the accused must induce a person,
 - (a) to deliver any property; or
 - (b) to make, alter or destroy the whole or any part of a valuable security.
- (ii) The accused did so dishonestly.

27. Hence, from a reading of the section 420 of IPC, it becomes clear that for formation of an offence under section 420 IPC, there must be deception coupled with a dishonest intention, followed by an inducement. In the present case, the prosecution version is that the accused had replaced the engine of his truck with the engine of some other truck and by tampering the engine number of the same. In the present case, neither the accused has dishonestly induced any person to deliver any property nor there has been any delivery of property to any person. Hence, the requisite ingredients required for the formation of an offence under Section 420 of IPC are not fulfilled in the present case. Accordingly, the accused cannot be held guilty under Section 420 IPC.

28. It is a settled position that the prosecution is required to prove its case beyond shadow of reasonable doubt and if there exists any doubt then benefit of doubt is to be given to the accused. Material evidence is required to connect the accused with the commission of the offence in question and in the

present case, the same is missing. In view of the facts and circumstances of the case, documents produced on record as well as the above-said discussion, this Court is of the view that the prosecution has remained unsuccessful in proving its case beyond reasonable doubt. Consequently, the accused is not held guilty under Section 420 of the Indian Penal Code. Resultantly, the accused Sukhdev Singh stands acquitted of the charge framed against him. His previous bail/surety bonds stand discharged. Case property, if any, be disposed as per rules, after the expiry of period of appeal or revision, if any. File be consigned to record room after due compliance.

Pronounced in Open Court.
30.01.2023

Parul Verma
Steno-II

Kunal Lamba
Judicial Magistrate First Class,
Rupnagar (UID No. PB0614)

Kunal Lamba
JMJC/Rupnagar
UID-PB0614