

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr. Appeal No.: 150/2001.

Reserved on : 26.2.2008

Decided on: 29.2. 2008.

State of H.P. Appellant.

Versus

Anisul Rehman. Respondent.

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting?¹ .No.

For the Appellant: Mr. Rajinder Dogra, Additional Advocate General.

For the Respondent: Mr. Malay Kaushal, Advocate.

Rajiv Sharma, Judge:

The respondent was prosecuted in case No. 150/2 of 2000/95 in the Court of Judicial Magistrate Ist Class, Kasauli at Solan under sections 465, 471 and 420 of the Indian Penal Code and was acquitted on 1.9.2000. Hence, the present appeal by the State.

The brief facts necessary for the adjudication of this case, which can be gathered from the judgment of the trial court, are that on 11.7.1994, an application was received in the Police Station from S.D.M. Solan Shri Heera Singh Thakur stating therein that one Prakash Chand, Chowkidar Working Hostel Women had shown a driving licence No. 90-PWN/94 dated 26.4.1994 to Yogesh Kumar Bali

Whether reporters of local papers may be allowed to see the judgment? No.

(PW-8) which appeared to be issued from his office. From the perusal of the driving licence and stamps in the said licence it created doubt in the mind of Yogesh Kumar Bali with regard to its validity. He inquired the matter and came to a conclusion that the alleged licence has not been issued from his office, but it was prepared by the accused by forging the signatures of Sh. Lokender Singh. An FIR was registered against the accused. The matter was investigated and the challan was put in. The prosecution examined as many as 9 witnesses to prove its case. The accused was examined under section 313 of the Code of Criminal Procedure. He was acquitted by the Judicial Magistrate 1st Class, Kasauli on 1.9.2000.

The learned Additional Advocate General had strenuously argued that the prosecution has proved the case against the accused.

Mr. Malay Kaushal, Advocate appearing on behalf of the respondent had supported the judgment dated 1.9.2000.

I have heard the learned counsel for the parties and have perused the record carefully.

PW-3 Seema Verma had stated that accused gave her licence Ex.PW-3/A and thereafter Prakash took the driving licence for perusal. However, PW-6 Prakash Chand had denied that Ex.PW-3/A was handed over to him by PW-3 Kumari Seema Verma. He was declared hostile. PW-6 Prakash Chand had denied that he had shown the driving licence to PW-8 Sh. Yogesh Bali. However, PW-8 Yogesh Bali has deposed that Prakash Chand had come to his office and shown him a driving licence in the name of Seema Verma daughter of Gauri Shankar. There are material contradictions in the statements of PW-6 and PW-8. PW-8 has admitted that the Licence Clerk keeps the stamps in the office. If the stamps were kept by the Licence Clerk how the accused has used the stamps in the office of Assistant

Collector. PW-4 Kishori Lal had stated that specimen signatures/writings of accused were sent to Government Examiner of Questioned Documents, Shimla for comparison. The report of Government Examiner of Questioned Documents was not proved in accordance with law since the Government Examiner of Questioned Documents was not examined by the prosecution to prove the hand writings of the accused. Similarly, the stamps had been recovered by the police from the office of Assistant Commissioner, Parwanoo and not from the custody of the accused. There are material contradictions in the statements of PW-3, PW-6 and PW-8 with regard to handing over the licence to them. The prosecution has failed to bring home the guilt against the accused person.

From the above discussion it is clear that the trial Court has correctly appreciated the evidence and has rightly acquitted the respondent.

Accordingly, there is no merit in this appeal and the same is dismissed. The bail bonds furnished by the accused-respondent stand discharged.

February 29, 2008.
**Awasthi*.*

(Rajiv Sharma)
Judge