



2025:DHC:6758



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 23rd May, 2025

Pronounced on: 12th August, 2025

+ CRL.M.C. 3358/2023 & CRL.M.A. 12603/2023

DENETH PIUMAKSHI WEDARACHCHIGEPetitioner

Through: Mr. Aditya Wadhwa, Mr. Arunav
Sinha, Mr. Shivansh Agarwal, Mr.
Sidharth Sunil & Ms. Shivani, Adv.

versus

STATE (NCT OF DELHI)Respondent

Through: Mr. Sanjeev Sabharwal, APP for the
State.
SI Umesh Yadav, P.S. IGI Airport &
Insp. Narendra Singh, Special Branch.

CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT

AMIT SHARMA, J.

1. The present petition under Section 482 of the Code of Criminal Procedure, 1973¹, read with Articles 226 and 227 of the Constitution of India has been filed seeking following prayers: -

¹ For short, 'CrPC'



“(a) Quash the Order dt. 20.10.2022 passed by the Ld. ASJ-06, Patiala House Courts, New Delhi in Cr. Revision 327 of 2020 dismissing the Revision Petition filed by the Petitioner; and thus discharge the Petitioner from the proceedings in Cr. Case No. 45646 of 2016, emanating out of FIR No. 141/2009 registered at P.S. IGI Airport; and
(b) Pass any other or further order(s)/direction(s) which this Hon’ble Court may deem fit in the larger interest of justice.”

BACKGROUND

2. The case of the prosecution against the present petitioner, as per the status report dated 19.09.2023 authored by Insp. Yashpal Singh, SHO/PS IGI Airport, is as under: -

“.....

2. Succinctly stated the case of the present matter is that on 02.04.2009, a complaint was received at PS IGI Airport from the complainant Sh. Rajan Bhaskaran who was posted as Counter Officer at Counter no.8 with Stamp No. C-62 of the right wing of the immigration. As per the complaint, while he was performing his duty as Counter Officer, one Srilankan passenger namely Deneth Piumakshi holding Srilankan passport number M-206353 1 issued at Colombo on 22.08.2001 approached for immigration clearance who was intending to go to London by flight number AI 111. However, on scrutiny of her passport, it was found that photocopy of Indian Visa serial number N 306861 of page number 9 was pasted on page number 35. Consequently, the matter was reported for registration of the case and after completion of necessary formalities, seizure of passport, boarding pass, ticket and departure card, charge sheet was filed under section 420/468/471 IPC against the accused person.

3. That during the course of investigation, the original Passport of accused was sent to FSL, Rohini for examination. As per the examination report of Departure sticker pasted on Page No. 33, it is observed that there are marks of overwritings on the short signature(initial) and figures of dates at both the places, it is again observed that existing figures of date in upper row at place of month are



not the original figures. On decipherment the original figures of month could be read as '12' in place of '11'. Similar overwritings were found at Page No. 34 on figures of date and signature while on Page No. 35, it was observed that it was not the original Visa sticker but an imitated coloured copy of Page No. 09. It can be inferred from the report of Forensic Science Laboratory that tampering with number and interpolations have been carried out in the passport while completing the necessary formalities with the immigration.

4. Further, it is observed that on the given date when the accused approached the counter officer for immigration clearance, she intended to use her tampered passport for obtaining immigration clearance to board the flight to London. Further, by suppressing the material information which was there on page number 35 of her passport, she had indulged in deception of the immigration authorities with the intention to obtain the immigration clearance, thereby prima facie committed offence under section 417 IPC and 471 IPC.

5. Since passport is a valuable security and prima facie interpolations were noticeable in the passport, section 417 IPC is to be read in tandem with section 471 IPC.

6. Furthermore, it is clear from the FSL report that there are various interpolations on the passport of the accused. This includes pasting of Indian Visa on the wrong page. It is the case of the accused herself that she was holding a valid Indian Visa. She gave her passport to one Sh. Subedi for extension of Nepali Visa. In all probabilities, when her passport was returned to her by the said Sh. Subedi, she could have easily noticed that the said valid Indian Visa has been repasted on some other page. There is no reason to believe that the accused/petitioner was unaware of such alteration / forgery. The burden of proving otherwise would lie upon the accused. She did not willfully disclose these facts to the Immigration Officer/Counter Officer. The case is pending trial before the court."

(emphasis supplied)

3. After completion of the investigation, chargesheet in the present case was filed and *vide* order dated 01.08.2020 learned Additional Chief



Metropolitan Magistrate (for short, 'ACMM') proceeded to frame charges against the present petitioner for offences punishable under Section 417, Section 471 read with Section 467 of the IPC.

4. The said order was challenged by way of revision petition, CR. No. – 327/2020, before the learned ASJ and *vide* order dated 20.10.2022, the said petition was dismissed by the learned ASJ.

SUBMISSIONS ON BEHALF OF THE PETITIONER

5. Learned counsel appearing on behalf of the petitioner submitted that the charges framed *qua* the present petitioner are not maintainable. It was submitted that the petitioner was holding a valid Indian Visa and the allegation against the present petitioner is that she pasted the photocopy of the Indian Visa on another page of the passport. It was submitted that at the most Section 12 of the Passports Act, 1957, is attracted in the present case, however, there is no previous sanction by the Central Government. It is the case of the petitioner that she had applied for one-month Nepalese Visa through a person and while handing over of her passport, the ink stains had come on the same. It was submitted that the offences punishable under Section 417, Section 471 read with Section 467 of the IPC for which the present petitioner has been charged with, are not made out for the reason that there is no forged document on record. It is not the case of the prosecution that any of the documents, either the passport or the visa, on the basis of which she had entered the country is forged. It is stated that the visa which



has been pasted on the passport is the photocopy of the original visa, however, it is not the case of the prosecution that the said visa did not exist. It is further submitted that the other interpolation that has been pointed out by the FSL is with regard to page of the passport on which endorsements were made by the Nepalese Authorities and no report from the said authorities has been placed on record to show that the said entries were manipulated.

SUBMISSIONS ON BEHALF OF THE STATE

6. Learned APP on behalf of the State submitted that there are two consecutive findings of the Courts, both by the learned Trial Court and the Revisional Court, and therefore, this Court in exercise of the present jurisdiction would only interfere with the findings, if any illegality, irregularity and perversity on the face of the record is demonstrated by the petitioner. It was submitted that the petitioner intended to use the tampered passport for obtaining immigration clearance to book the flight to London, and therefore, *prima facie*, offences punishable under Section 417, Section 471 read with Section 467 of the IPC are clearly made out.

ANALYSIS AND FINDINGS

7. Learned Trial Court *vide* order dated 01.08.2020, while framing charges against the present petitioner had observed and held as under: -

“8. It is plain from the settled proposition of law that at the stage of charge, the court has to see whether there is strong suspicion against the



accused on the basis of available material to proceed further with the framing of charge or not. In the instant case, I find merit in the submissions of Ld. Counsel for accused that for making the alterations in the passport, section 12 of Passport Act is attracted for which the prosecution has not taken the requisite steps for obtaining the necessary permission from the Central Government nor the prosecution has charge sheeted the accused under the said section. However, in my thoughtful consideration, there is enough material on record to suggest that the accused cheated the Indian Immigration Authorities by using forged passport for which she cannot evade the prima facie liability and thus needs to go through the rigors of the trial.

9. There is no challenge on behalf of the accused that on 02.04.2009, she approached the immigration officer with her Srilankan passport bearing number M 2063531 for immigration clearance for flight number AI 111. It is also not denied that copy of Indian Visa was also pasted on page number 35 of passport. As per the prosecution, this passport was sent to FSL, Rohini for analysis and it has been reported that there are marks of over- writing on page number 33 and 34. Further, it has been reported that Visa sticker pasted on page number 35 is an imitated colored copy of page number 9 in order to hide the original content on page number 35. It is thus clear from the report of the FSL that various interpolations have been made on the passport which was being carried and used by the accused while completing the necessary formalities with the immigration.

10. As regards the argument of the Ld. Counsel for accused that the offence under section 420/468/471 IPC is not made out against the accused, it is observed that on the basis of the facts and circumstances mentioned in the charge sheet, it is prima facie made out that on the given date when the accused approached the counter officer for immigration clearance, she intended to use her tampered passport for obtaining immigration clearance to board the flight to London. Further, by suppressing the material information which was there on page number 35 of her passport, she has indulged in deception of the immigration authorities with the intention to obtain the immigration clearance, she can be said to have prima facie committed offence under section 417 IPC and 471 IPC. Since passport is a valuable security and prima facie interpolations are noticeable in the passport, section 471 IPC is to be read in tandem with section 417 IPC. So far as the offence under



section 468 IPC is concerned, there is no material on record that the accused herself committed the act of forgery for the purpose of cheating.

11. In so far as the reliance placed by the Ld. Counsel for accused on the case titled as Malcolm War Macleod (Supra), it is observed that the said case merely pertains to mutilation of the passport and not any tampering in the passport. Further, in the other two cases namely Ram Chander Vs State and Niru Kumari Vs State also, there were no allegations of the commission of alterations in the passport. Thus, all the judgments are on distinguishing facts and not applicable to the facts of the present case.

12. Having regard to the above discussion, it is held that there is ample material on record to frame charges against the accused for offence punishable under section 417 IPC, 471 r/w 467 IPC. Let formal charge be framed against the accused under said sections.”

8. Learned Revisional Court, *vide* order dated 20.10.2022, while dismissing the revision petition, CR. No. – 327/2020, filed on behalf of the petitioner had observed and held as under: -

“5. As per allegations, on the date of incident, the accused approached Immigration Counter. On scrutiny, her passport was found to be having some alterations / forgery. Section 415 of the IPC defines the offence of cheating. It uses words "or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat”.”

Explanation – A dishonest concealment of facts is a deception within the meaning of this Section.

5.1 As per the FSL report, it is clear that there are various interpolations on the passport of the accused. This includes pasting of Indian Visa on the wrong page. It is the case of the accused herself that she was holding a valid Indian Visa. She gave her passport to one Sh. Subedi for



extension of Nepali Visa. In all probabilities, when her passport was returned to her by the said Sh. Subedi, she could have easily noticed that the said valid Indian Visa has been repasted on some other page. There is no reason to believe that the accused / revisionist / petitioner was unaware of such alteration / forgery. The burden of proving otherwise would lie upon the accused / petitioner in terms of Section 106 of the Indian Evidence Act. She did not willfully disclose these facts to the Immigration Officer / Counter Officer. This amounts to dishonest concealment of facts, it is a deception within the meaning of Section 415 IPC. Such deception was intended to induce the Immigration Officers / Counter Officers to do an act in violation of their duty or to omit to do their duty. Such deception would have caused damage or harm to the reputation of the Immigration Department. As such, the alleged acts of the accused make out the offence of cheating within the definition as provided under Section 415 IPC.

6. The accused deliberately tried to use a forged document as genuine. As such, offence under Section 471 IPC is also made out against the accused. Since the passport is a valuable security, charge for the offences punishable under Sections 417/471 read with Section 467 IPC is made out against the accused.

7. Ld. Counsel for the petitioner argued that she did not violate any Indian Law. It is pertinent to observe that the aforementioned offences took place at IGI Airport, Delhi. As such, the alleged offences took place within the Territory of India and subject to the jurisdiction of the Ld. Trial Court as well as Courts at Delhi.

8. In view of the above, this court does not find any reason to interfere in the impugned order. Accordingly, the present revision petition is dismissed.”

9. At this stage, it would be apposite to refer to the provisions for which the petitioner has been put up for trial, *i.e.*, Section 417, Section 471 read with Section 467 of the IPC, which read as under: -



“417. Punishment for cheating.—Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

467. Forgery of valuable security, will, etc.—Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, shall be punished with 4 [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

471. Using as genuine a forged document or electronic record.—Whoever fraudulently or dishonestly uses as genuine any ³ [document or electronic record] which he knows or has reason to believe to be a forged ³ [document or electronic record], shall be punished in the same manner as if he had forged such ³ [document or electronic record].”

10. The FSL report in the present case has been given with the following opinion: -“



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Form No. FSL/DELHI/FM/03/23A/24.12.2007

FORENSIC SCIENCE LABORATORY

GOVT. OF NCT OF DELHI

Madhuban Chowk, Sector-14, Rohini, Delhi-110085.

REPORT NO. F.S.L.2009/D-2660

Dated 06.11.09.

1. Please quote the Report (Opinion) No. & Date in all future correspondence & Summons.
2. This Report is per se admissible U/s 293 Cr.P.C.

To

The Station House Officer,
Police Station - I.G.I. Airport
(I.G.I. Airport Unit)
New Delhi-110037.

The documents forwarded with your Memo No. 3630/SHO/IGIA Dated 02.07.09 in connection with case FIR No 141/09 Dated - U/S 420/468/471IPC & 12 P.P. Act P.S I.G.I. Airport and received in the Laboratory on 03.07.09.

EXHIBITS

QUESTIONED - One passport of Sri Lanka bearing No. M 2063531 issued to Deneth Piumakshi Wedaarachchige page No. - 33,34,35 and 09 marked as X1 to X4 respectively.

STANDARDS - Nil.

LABORATORY EXAMINATION

The passport bearing No. M 2063531 was carefully and thoroughly examined with various scientific instruments such as Stereo Microscope, Docubox Dragon, VSC-2000/HR. Docucenter and different Magnifying glasses etc. under different lighting conditions and the following observations have been made:

1. On examination of Departure sticker pasted on page no. 33 marked X1, it is observed that there are marks of overwritings on the short signature (initial) and figures of dates at both the places, it is again observed that existing figures of date in upper row at place of month are not the original figures. On decipherment the original figures of month could be read as '12' in place of '11' (enclosed annexure-I where overwritings are shown in red arrows and alterations in green arrows).

Mans



FSL 2009/D-2660

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2. There are marks of overwritings on figures of date and signature existing in stamp impression of "Immigration Checkpost Banbasa (Departure) at page no. 34 marked as X2 (enclosed annexure-II where overwritings are shown in red arrows).

3. On examination of visa sticker pasted on page no. 35 marked X3, it is observed that this is not the original visa sticker but an imitated colored copy of page no. 9 where original visa sticker is pasted and marked as X4 (Enclosed Annexure-III where red arrows are showing periphery of visa sticker and green arrows of page no. 9).

4. On decipherment, the original content below the pasted imitated visa sticker on page no. 35 marked X3, could be read as -

"S.No. 001 ----,

----- 22-02-008

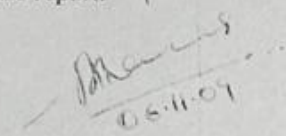
----- 01.01.008

and signature with figures of date reading as ---01.008, alongwith the stamp impressions of "Nepal Immigration Tourist Entry Visa."

Encls: I. Documents stamped and marked X1 to X4 in one passport.

II. Enclosures as above.

Note: Documents sent to this laboratory for examination and case report have will be sealed with the seal of DOC.FSL in the presence of authorized messenger at the time of hand over the crime exhibits/documents along with case report.


05.11.09
(ANURAG SHARMA)

”



11. So far as Mark X1 at page 33 is concerned, it is noted that the same relates to immigration stamp of Nepalese Authority. Admittedly, there is no report from the said authority with regard to any tampering.

12. Over writings on figures of date and signature mentioned in the stamp impression of “Immigration Checkpost Banbasa (Departure)” at page 34 marked as X2 also relate to the Nepalese Authority for which no report has come on record.

13. Insofar as the visa sticker pasted on page no. 35 marked X3 is concerned, it is the opinion of the FSL that the said visa sticker is not the original visa sticker but an imitated coloured copy of page 9, where the original sticker was pasted, which has been marked as X4.

14. It is the opinion of the FSL with regard to presence of coloured photocopy of the original Visa which has formed the basis of prosecuting the petitioner for the offences punishable under Section 417, Section 471 read with Section 467 of the IPC.

15. The case of the prosecution is that the photocopy of the original Visa of the petitioner is a forged document, and therefore, she had tried to deceive the immigration authorities by using the said forged document.

16. It is pertinent to note that both the learned Trial Court and the Revisional Court have not given any findings as to how the coloured



photocopy of an original, in the present case of visa, will become a forged document and under which category of forged documents would such a document would come has also not been explained by the prosecution or by the learned Courts below. Forgery has been defined under Section 463 of the IPC, which reads thus: -

“Section 463: [Whoever makes any false document or false electronic record or part of a document or electronic record, with intent to cause damage or injury], to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.”

17. Section 464 defines “making a false document” which reads thus: -

“464. Making a false document.—[A person is said to make a false document or false electronic record—

First.—Who dishonestly or fraudulently—

(a) makes, signs, seals or executes a document or part of a document;

(b) makes or transmits any electronic record or part of any electronic record;

(c) affixes any 4 [electronic signature] on any electronic record;

(d) makes any mark denoting the execution of a document or the authenticity of the [electronic signature],

with the intention of causing it to be believed that such document or part of document, electronic record or 4 [electronic signature] was made, signed, sealed, executed, transmitted or



affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, singed, sealed, executed or affixed; or

Secondly.—Who without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with 4 [electronic signature] either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly.—Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his 4 [electronic signature] on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document or electronic record or the nature of the alteration.]”

18. The Hon’ble Supreme Court in *Mohammed Ibrahim & Ors. v. State of Bihar & Anr.*², has observed and held as under: -

13. The condition precedent for an offence under Sections 467 and 471 is forgery. The condition precedent for forgery is making a false document (or false electronic record or part thereof). This case does not relate to any false electronic record. Therefore, the question is whether the first accused, in executing and registering the two sale deeds purporting to sell a property (even if it is assumed that it did not belong to him), can be said to have made and executed false documents, in collusion with the other accused.

14. An analysis of Section 464 of the Penal Code shows that it divides false documents into three categories:

1. The first is where a person dishonestly or fraudulently makes or executes a document with the intention of causing it to be believed

² (2009) 8 SCC 751



that such document was made or executed by some other person, or by the authority of some other person, by whom or by whose authority he knows it was not made or executed.

2. The second is where a person dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part, without lawful authority, after it has been made or executed by either himself or any other person.

3. The third is where a person dishonestly or fraudulently causes any person to sign, execute or alter a document knowing that such person could not by reason of (a) unsoundness of mind; or (b) intoxication; or (c) deception practised upon him, know the contents of the document or the nature of the alteration.

In short, a person is said to have made a “false document”, if (i) he made or executed a document claiming to be someone else or authorised by someone else; or (ii) he altered or tampered a document; or (iii) he obtained a document by practising deception, or from a person not in control of his senses.

(emphasis supplied)

19. The petitioner’s case does not fall in any of the above said 3 categories. The photocopy of the original visa cannot be;

- a) a document made or executed by the petitioner claiming to be someone else or authorized by someone else;
- b) a document which is either altered or tampered; and,
- c) a document that was obtained by practicing deception, or from a person not in control of his senses.

20. The petitioner had original Indian visa with Sr. No. N306861 at page No. 9 of the passport. It is the case of the prosecution, as per the status report



dated 19.09.2023, that the petitioner approached a counter officer for immigration clearance, intending to use a tampered passport for obtaining immigration clearance to board the flight to London. The prosecution case, at its best, is with respect to pasting of a coloured photocopy of the original visa on the page 35 of the petitioner's passport which would not bring the case of the petitioner under Section 464 of the IPC.

21. As already pointed out hereinbefore, the learned Trial Court as well as the Revisional Court did not examine the material on record to come to a *prima facie* conclusion that whether the document itself was forged or not. The said Courts concluded that the petitioner approached the immigration authorities of the airport by suppressing information which was there on page 35 of the passport, *i.e.*, the coloured photocopy. This Court is unable to agree with the conclusion of the learned Trial Court as well as the Revisional Court that on account of the said act the petitioner deceived the immigration authorities. The Indian visa on the passport of the petitioner at page no. 9 was genuine.

22. Thus, in the considered opinion of this Court, even the ingredients of the Section 417 of the IPC are not made out.

23. In the aforesaid facts and circumstances, the present petition is allowed. The order dated 20.10.2022 passed by the learned Additional Sessions Judge-06 Patiala House Courts, New Delhi in Cr. Revision No. 327 of 2020 is set



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aside and the petitioner is discharged from the proceedings in Cr. Case No. 45646/2016 arising out of the FIR No. 141/2009 registered at PS IGI Airport.

24. Copy of the judgment be communicated to the concerned learned Trial Court for necessary information and compliance.

25. Judgment be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J.

AUGUST 12, 2025/sn/kr/ns