

## APPELLATE CRIMINAL.

*Before Mr. Justice Harrison and Mr. Justice Dalip Singh.*

THE CROWN Appellant

*versus*

CHANAN SINGH Respondent.

1928

Oct. 3.

Criminal Appeal No. 385 of 1928.

*Indian Penal Code, 1860, section 471—presentation of document in which date of birth had been changed—to qualify appellant to appear in a competitive examination—whether fraudulent—section 463—“claim”—whether confined to property only.*

With a view to qualify for appearance at the competitive P. C. S. examination the accused (on being asked to do so for comparison with the original) presented to the Punjab University a certified copy of the certificate Ex. P. A. granted to him by the University at his Matriculation examination, in which the date of birth had been altered from “5th January 1901” to “15th January 1904”. He was charged with an offence under section 471, Indian Penal Code. The High Court held on the evidence that the date in Ex. P. A. had been altered and that the accused knew Ex. P. A. to be a false document.

*Held*, that in presenting Ex. P. A. to the University the accused had committed an offence under section 471, Indian Penal Code, inasmuch as the document presented, being a false document, was used with intent to cause damage and injury to the other candidates in the competitive examination for the P.C.S. and to support accused’s claim to appear.

*Kotamraju Venkatrayadu v. Emperor* (1), referred to.

*Held also*, that the term “claim” in section 463, Indian Penal Code, is not limited in its application to a claim to property.

*Queen-Empress v. Abbas Ali* (2), *Queen-Empress v. Soshi Bhushan* (3), and *Kotamraju Venkatrayadu v. Emperor* (1), referred to.

(1) (1905) I. L. R. 28 Mad. 90.

(2) (1890) I. L. R. 25 Cal. 512.

(3) (1893) I. L. R. 15 All. 210.

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*Appeal from the order of J. K. M. Tapp, Esquire, Sessions Judge, Lahore, dated the 23rd January 1928, reversing that of E. H. Lincoln, Esquire, Additional District Magistrate, Lahore, dated the 30th November 1927, and acquitting the respondent.*

CARDEN-NOAD, Government Advocate, for Appellant.

M. L. PURI, for Respondent.

JUDGMENT.

HARRISON J.

HARRISON J.—Chanan Singh was convicted on three charges :—

1. Forgery for the purpose of cheating under Section 468 of the Indian Penal Code ;
2. Using as genuine a forged document under Section 471, Indian Penal Code.
3. Attempting to cheat the Punjab University under Sections 417/511, Indian Penal Code.

He was sentenced to concurrent sentences of six months' rigorous imprisonment and a fine of Rs. 500 on each count.

On appeal he was acquitted on all the three charges by the Sessions Judge, and Government has preferred an appeal against those orders of acquittal.

So far as the first head of the charge is concerned, that of actually forging a certificate by altering a date, this has been dropped as the learned Government Advocate, who contends that the document has clearly been forged in the sense that a date has been altered, concedes that the Crown has been unable to establish that the forgery was done by Chanan Singh. Similarly, the Government Advocate does not wish to press the third head of the charge. The second alone remains.

In order to qualify for appearance at the I.C.S. and P.C.S. examinations held in India it is necessary to submit, together with other documents, the original or a copy of the certificate granted by a University to successful candidates at Matriculation examinations. The procedure is different as regards the two examinations and in this case we are concerned more especially with the P.C.S. Chanan Singh, the accused, applied for a duplicate of his certificate. Exhibit P. A. was granted to him and at the time it is said, the date of birth was shown as 5th January 1901, this being the date originally supplied by the candidate himself. It is contended that this was subsequently altered so as to make it appear that the entry was 15th January 1904, presumably because the earlier date would have debarred the candidate from appearing in either examination. When presenting his application for admission to the I.C.S. examination, Chanan Singh did not attach the original duplicate certificate. Instead of doing so he obtained a document or rather a signature on a document from the Deputy Commissioner of Simla, which showed that the date in the duplicate certificate at the time it was shown to him (the Deputy Commissioner) was 15th January 1904. This appears to have been accepted by the authorities who manage the I.C.S. examination, though possibly exception might have been taken to it at some later date, as being neither an original nor a copy of an original. So far as the P.C.S. examination is concerned a similar procedure was followed, and, instead of the certificate being put in, a certificate obtained from *Pandit Lekh Raj Trikha*, Section 30 Magistrate of Ferozepore, was attached to the other papers. In this the *Pandit* certified in the same way as the

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Deputy Commissioner of Simla had certified that the entry in the duplicate certificate was 15th January 1904. The University authorities were not satisfied with this secondary or tertiary evidence. Chaman Singh was called upon to produce the original. He did so, and on it being checked with the register of the University and other papers the alteration was discovered.

With the exception of the disputed points as to the date originally entered in the duplicate, and whether it was altered or not these facts are not challenged. The points to be decided are simple enough, the first being whether a forgery was committed in the sense that the original date in Exhibit P. A. was altered. The learned Sessions Judge is of opinion that this is not proved ; and, of course, if this is not proved, the whole case falls to the ground. The evidence on the subject consists of the statements of Mr. Dutt, Registrar of the University, and Partab Singh, P. W. 14 and the document itself. The witnesses explain the precautions which are taken in the preparation of duplicates ; and although, as pointed out by counsel for the accused, there is some slight confusion in the statement of Partab Singh regarding the exact procedure followed by Mr. Dutt, when the two statements are read together it becomes quite clear what happens. The application for a duplicate is received and this is prepared from the Gazette. It is then taken to the Registrar and he himself checks the duplicate by the entry in the Gazette and by the original application and when he has satisfied himself that all the entries agree he then, and not till then, allows the duplicate certificate to issue. The original applications are kept under lock and key by the Superintendent. These two

witnesses have pointed out the alterations which are alleged to have been made, more especially the addition of the " 1 " in front of the " 5th " in the date of the month and the change of " 1 " into a " 4 " in the year so as to make the whole thing read " 15th January 1904 " instead of " 5th January 1901 ". The Sessions Judge has stated in his judgment that " a scrutiny of Exhibit P. A. does not clearly show that the date of birth has been tampered with. The ' 1 ' in front of the ' 5 ' is not unlike the two ' 1 's, etc, etc." To us it is as clear as day that this date has been tampered with. After the enquiry had commenced the same writer Partab Singh was ordered to prepare another certificate from the original entry, and this is Exhibit P. B. A comparison of Exhibit P. B. with Exhibit P. A. in what is said to have been its original form shows that this man Partab Singh wrote a most precise and careful hand, using a fine pen and leaving a considerable space between his figures. This spacing is consistent, if this be the correct expression. If, however, the " 1 " in Exhibit P. A. which precedes the " 5 " and the " 4 " of the date of the year, be allowed to stand, as now appearing, the spacing at once becomes irregular and the whole character of the writing changes and so far as the date is concerned it could not be that of Partab Singh, the man who wrote P. B. It has been stated that, in order to avoid detection and to make the new date more natural, the pen has been run over the whole of the figure 1904 and that in order to prevent this being obvious and suspicious, some other letters have been inked over, so that the whole presents a natural if somewhat patchy appearance. Much argument has been addressed to us on this point and on the quality of the ink used. It is

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quite unnecessary to go into this matter, for on the evidence of these two witnesses combined with my own examination of the date on Exhibit P. A. I have not the faintest hesitation in finding that the date has been tampered with and that what originally was "5th January 1901" has been changed into "15th January 1904," and this is based on the internal evidence combined with the statements of the witnesses, the former bearing out and explaining the latter. The first point is, therefore, established that there was a false document in the shape of Exhibit P. A.

The second point is even simpler and this is whether Chanan Singh knew that there was a false document. To decide this it is sufficient to trace his history through the Primary, Middle and High schools. His Leaving Certificate, Exhibit P. U., from the Primary School presented for admission to the middle school shows his birth as 15th January 1900. This was granted in 1913. Exhibit P. R., the Leaving Certificate from the Middle School shows his birth as 5th January 1900. Exhibit P. Q., the Admission and Withdrawal Register of the Rajindra High School, shows his birth again as 5th January 1900. Exhibit P. P/1, the application for admission to Matriculation Examination, shows his birth as 5th January 1901 as originally entered on Exhibit P. A. In Exhibit P. J./1, the application for admission to Mohindra College we first find his birth shown as 5th January 1905 and this date continues. If this date were correct he must have entered the Primary School at the age of two, or he must have become one year younger at the time of applying for permission to appear at the Matriculation Examination and four years younger after passing, and this:

in spite of his age having progressed in the normal and natural way during his time in the Primary and Middle Schools, a fact of which he was well aware. The date of birth on the application for admission to the Government College in the M.A. class is still 1st January 1905. This is admittedly in his own handwriting ; and, taking the evidence as a whole there can be no shadow of doubt that he was suddenly brought face to face with the fact that he was too old to obtain employment according to the date originally shown by him in his application for admission to the Matriculation Examination and the necessary rejuvenation was effected, or rather the documentary evidence of such rejuvenation was manufactured and subsequently made use of by Chanan Singh.

This brings us to the legal point of whether the requirements of section 471 have been fulfilled.

It is unnecessary to go into the question of whether the presentation of the certificate granted by *Pandit* Lekh Raj *Trikha* regarding the contents of Exhibit P. A. was or was not an offence under section 471. There is some doubt on this point, and it is possible that there is a conflict between an old ruling of the Chief Court, *King-Emperor v. Fazal Din* (1), and *In re Sithava Naik* (2), a Madras ruling. It will be sufficient to decide whether or no the presentation of Exhibit P. A. to the University authorities was or was not an offence. It is urged that this was an involuntary production and wholly irrelevant rulings have been quoted and relied upon as to the effect of witnesses producing documents in Courts of law when ordered to do so. Counsel has also relied on the argument to be found in the judg-

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(1) I P. R. (Cr.) 1907.

(2) (1915) 16 Cr. L. J. 703.

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ment of the Sessions Judge to the effect that only an innocent man would put his head into the lion's mouth and deliberately incriminate himself. This is by no means a correct statement of the situation. The accused, having in his possession a false certificate and having produced secondary evidence as to its contents in the shape of a certificate granted by *Pandit Lekh Raj Trikha*, was called upon to produce the original. Two courses were open to him. If he produced it there was presumably a reasonable chance that, on the contents of the original and the *Pandit's* certificate being found to be the same, no further enquiry would be made. If further enquiry were made the discrepancy must be discovered. On the other hand if he failed to produce it the discrepancy must be discovered. A good chance of escape as against an absolute certainty of discovery.

Finally, it is contended that the document was neither made nor used with intent to cause damage or injury to any person or to support any claim or title as defined in section 463.

The learned Government Advocate has contended that in the first place, the Government has been defrauded and in the second place, the University. We think that there can be no shadow of doubt that the persons really defrauded by an attempt to obtain admission on false pretences into a competitive examination by an unqualified candidate are the other candidates. The attempt was clearly to defraud them and to snatch from them the prize or prizes or one of the prizes, which they would otherwise compete for among themselves. There were a limited number of appointments and only a limited number of candidates could be successful. It is urged by Mr. Mukand Lal *Puri* that this could not have been



the primary intentions of the accused, he merely wished to benefit himself and did not wish to injure anybody. The two results are wholly interdependent on each other and it would have been impossible for him to achieve the one without the other. The argument is somewhat as if a man were to enter a horse for a race on a false description and were to get an advantage in the weights and were then to plead that he did not wish to injure the owners of the other horses but merely to secure the stakes for himself. There is no question of remoteness, what he gains is what somebody else loses. And so here it is not a matter of a qualifying examination as was the case in *Kotamraju Venkatrayadu v. Emperor* (1), but of a competitive examination. As laid down in *Queen-Empress v. Abbas Ali* (2), the term "claim" is not confined to property only; as laid down in *Queen-Empress v. Soshi Bhushan* (3), the term "claim" in section 463, I. P. C., is not limited in its application to a claim to property, and, as laid down by the majority of the Court in *Kotamraju Venkatrayadu v. Emperor* (1), the offence is complete on the present facts. I find it established beyond all shadow of doubt that Exhibit P. A. is a false document and was made with intent to cause damage and injury to the other candidates for the P. C. S. examination and to support Chanan Singh's claim to appear. It is, therefore, a forged document. I find that it was used for this purpose to substantiate his claim when produced before the University authorities. I, therefore, hold that all the ingredients of the offence are present and that he is guilty.

The question of sentence is not easy. There is no doubt that this offence is not uncommon and that

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by a large class of the population it is not looked upon as connoting grave depravity. The accused was heavily punished by losing all chance of any sort of government employment, and I take it as certain that his prospects are ruined for all time. He has through no fault of his own been subjected to a long period of suspense instead of having his appeal dismissed in the first instance, as I think it should have been dismissed, and, taking everything into account, and on the analogy of the sentence passed in the Calcutta case, while I would have upheld the original sentence had I been the original appellate Court I think it only reasonable to pass a sentence of three months' simple imprisonment and a fine of Rs. 500 and in default of payment of the fine a further period of three months' simple imprisonment.

DALIP SINGH J.

DALIP SINGH, J.--I agree.

A N. C.

*Appeal accepted.*