

## Deepak Natwarlal Shah @ D N Shah vs Cbi on 21 March, 2018

**Author: Mukta Gupta**

**Bench: Mukta Gupta**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.A. 632/2017

DEEPAK NATWARLAL SHAH @ D N SHAH ..... Appellant

Represented by: Mr. N. Hariharan, Sr. Advocate  
with Mr. S.P.M. Tripathi, Mr.  
Siddharth S. Yadav, Mr. Aditya  
Singh and Ms. Mallika Lhadha,  
Advocates.

versus

CBI

..... Respondent

Represented by: Mr. Sanjeev Bhandari, Spl. P.P.  
for CBI.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% 21.03.2018 Crl. M.B. No. 1153/2017 (suspension of sentence)

1. The appellant has been convicted for offences punishable under Section 12 of the Passport Act, Section 13 (2) read with Section 13 (1) (d) of the Prevention of Corruption Act and Sections 419/420/467/468/471 IPC read with Section 120B IPC and awarded sentence for imprisonment for a period of seven years and to pay fine.

2. Briefly the case of the prosecution is that Rajendra Sadashiv Nikalje @ Chhota Rajan, an Indian national in criminal conspiracy with public servants dishonestly and fraudulently procured a passport in the fake name of Mohan Kumar, s/o Damodar, r/o 107/B, Old M.C. Road, Azad Nagar, Mandya, Karnataka, India and on the strength of the said forged passport stayed illegally in Australia from 22nd September, 2003 to 25th October, 2015. Accused Chhota Rajan in the name of Mohan Kumar concealed his identity. The passport was again issued on 8th July, 2008 from Indian Consulate at Sydney, Australia on the strength of the old passport No.Z1017162 dated 19th December, 2003 which was issued from High Commission of India, Harare, Zimbabwe on the basis of passport No.A6705840 dated 1st December, 1999 issued from the Regional Passport Office Bangalore. It is alleged that Chhota Rajan in conspiracy with the officials of RPO, Bangalore namely Jayashree Dattatray Rahate, Deepak Natwarlal Shah, the present applicant and Lalitha Lakshmanan fraudulently obtained the passport in the fake name using forged and fake documents.

3. It is the case of the prosecution that at the time of issuance of passport No.A6705840 entire file

was placed before the applicant, the then Assistant RPO, Bangalore as he had to exercise his authority as passport granting officer before issuing a passport. Thus he was required to go through the entire file and detect discrepancies, if any, noted. Despite the fact that there was no index card in the name of Mohan Kumar and as per Passport Writing Register, Passport No.F004555 was not issued in the name of Mohan Kumar, the applicant by abusing his official position as passport issuing authority extended favour to Chhota Rajan and issued passport No.A6705840 in the name of Mohan Kumar.

4. The main argument of learned counsel for the appellant seeking suspension of sentence is that the applicant was the last person to sign the passport and it was not his duty to scrutinise the same which was done by the officers prior to him. On the basis that officers had scrutinised the documents, he was not duty bound to verify further facts.

5. Case of the prosecution is that the index card is a permanent record of the passport office. This document assumes greater importance as at the time of re-issue of the passport or for issue of duplicate booklet, the credentials of the applicant are verified from this index card only. The index card proves that a particular individual with specific detail/photographs/signature had approached the passport office previously and his application was dealt with in particular file bearing specific number and passport bearing unique number was allotted to a particular individual.

6. Further the issue of passport booklet bearing unique perforated number is recorded in "Passport Writing Register" with details that a specific passport was issued to a particular individual. Perforated booklet number is a unique number and cannot be assigned to two persons, the same is kept as permanent record of the passport office. Thus index card and Passport Writing Register are the only records kept by the passport office from which details pertaining to issue of previous passport can be ascertained.

7. It is the case of the prosecution that the entire file was put up to the appellant which he was required to scrutinise before signing the passport and knowing fully well that there was no index card in the name of Mohan Kumar and as per the Passport Writing Register, passport No.F004555 was not issued in the name of Mohan Kumar, the appellant by abusing his official position as passport issuing authority extended undue favour to Chhota Rajan and issued passport No. A6705840 in the name of Mohan Kumar.

8. On the evidence led by the prosecution the contention of the appellant that he was not required to verify any facts and all facts were verified by the previous officers, thus he signed and issued the passport cannot be accepted. Present is not a case where the error or forgery committed could not be detected by the appellant. Appellant was duty bound to verify the two essential documents which he deliberately did not consider. Appellant has been awarded rigorous imprisonment for a period of seven years. As per the nominal roll the appellant has undergone less than one year imprisonment and on the facts noted above, this Court finds no ground to suspend the sentence of the appellant pending hearing of the appeal.

9. Application is dismissed.

MUKTA GUPTA, J.

MARCH 21, 2018 'vn'