

O.W. No./ 180/2022
6th Jt. C.J.J.D.& J.M.F.C.,
Ulhasnagar.
Date :- 05/04/2022.

To:
The Registrar,
Council of Architecture,
New Delhi
(registrar-coa@gov.in)

Sub.:- Copy of Judgment in R.C.C No.956/2001 (Civil & Criminal Court, Ulhasnagar, Dist. Thane Badlapur Police Station C.R. No. I-71/2001 State V/s. Sanjay Gopal Jadhav.

Respected Sir,

With reference to the above captioned subject, I am sending herewith the copy of Judgment in R.C.C. No.956/2001 (Badlapur police station C.R. No. I-71/2001) F.I.R. was lodged by Deepakkumar Shriratanlal Sharma for the offences of cheating and forgery to obtain certificate of Registration No. **CA/96/20473** for your information and further necessary action.

Yours truly

KAUSTUBH Digitally signed by
H NAGESH KAUSTUBH
MARATHE NAGESH MARATHE
Date: 2022.04.05
16:15:34 +05'30'
(Kaustubh Nagesh Marathe)
6th Jt. Civil Judge, J.D. &
J. M. F.C., Ulhasnagar
Dist. Thane, Maharashtra



AP.
✓

Registrar
Date 10/21/22
12-4-22

JUDGMENT
(Exh.78)

5/4/2022
उत्तराधिकार अदालत
सह. दिवाणी न्यायालय
उल्हासनगर
5 APR 2022

RCC No. 956 of 2001
State v/s. Sanjay Gopal
Jadhav & another



MHTH130007052001

Presented on : 15/10/2001
Registered on : 15/10/2001
Decided on : 05/04/2022
Duration : 20Y. 05M. 21D

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS
(COURT NO.6) AT ULHASNAGAR DIST. THANE.
(Presided over by Kaustubh Nagesh Marathe)

R.C.C. No. 956 of 2001
EXH. NO. 78

State of Maharashtra]
(Through Badlapur East Police Station)] **... Prosecution**

Versus

1) Sanjay Gopal Jadhav,]
Age – 32 years, occ. - Contractor,]
Age- Flat No.13, Gurusrushti, behind]
Mahadeo Patil Mangal Karalaya,]
Kulgaon, Badlapur, Tal. Ambernath, Dist.]
Thane.]

2) Jagdish Mukund Sarode,]
(Deceased)]
Age - 63 years, occ. - Tuition,]
R/o. C-1/704, Lokrachana, Amarnagar,]
Mulund (W), Mumbai – 400 082.] **... Accused**

Appearances: -

Shri. V. G. Bansode, Learned A.P.P for the State.
Shri. P.P. Dukare, Learned Advocate for the Accused No.1.

J U D G M E N T
(Delivered on 05/04/2022)

1. The Accused Sanjay Gopal Jadhav stands prosecuted for the offences punishable under section 420, 463, 471, of Indian Penal Code, 1860 (hereafter referred to as "IPC") and Sec. 36 of Architect Act, 1972.

2. The case of the Prosecution as per the police report can be summarised as follows: -

- a. The Informant Deepak Shri Ratanlal Sharma was working as Stenographer in Council of Architecture at New Delhi. On 12/09/1996 the Accused Sanjay Gopal Jadhav, made an Application to the Council of Architecture for registering himself as an Architecture. The said Application was in proforma along with requisite fees and necessary certificates.
- b. The Informant has submitted S.S.C. certificate, diploma certificate and experience certificate. On the basis of these documents the Council of Architecture on 18/09/1996 issued provisional certificate bearing No. CA/1996/20473.
- c. The Council of Architecture thereafter, received a confidential information which disclosed that Accused Sanjay Gopal Jadhav had submitted false and fabricated diploma certificate. The Council thereafter verified the



certificates submitted by the Accused and it was revealed that the said certificate was issued by Maharashtra State Board of Technical Education and by L. S. Raheja School of Architecture, Bandra Mumbai. The Council wrote to the Principal of L. S. Raheja School of Architecture, Bandra Mumbai who in his reply dtd. 14/02/2001, informed that no person in the name of Sanjay Gopal Jadhav was admitted as a student in their school.

d. The Informant, on the basis of the aforesaid letter, came to the conclusion that the documents submitted by the Accused Sanjay Gopal Jadhav were forged documents and accordingly, by practicing profession of Architect, the Accused had in fact cheated the Council Architecture. Therefore, the present F.I.R came to be lodged.

e. On basis of information given by the Informant, offence bearing C.R. No. I-71/2001 came to be registered for the offences punishable U/sec. 420, 463, 471 of the Indian Penal Code and Sec. 36 & 37 of Architect Act,1972.

3. I have framed the charge against the Accused vide Exh. 14-A for the offence punishable U/sec. 420, 465, 471 of the Indian Penal Code and Sec. 36 of Architecture Act,1972, to which the Accused pleaded not guilty and claimed to be tried.

4. During the pendency of the case, the Accused No.2 Jagdish Mukund Sarode died on 13/10/2020. His death certificate was

placed on record at Exh.14. Hence, the case is abated against him. After the evidence of the prosecution, the examination of the Accused as per Section 313 of the Code of Criminal Procedure, 1973 (hereafter referred to as "Cr.P.C.") been recorded at Exh.73. The Accused stated in his statement U/sec.313 that he is falsely implicated only with the intention to harass him, a false case is lodged against him. He lastly stated that he does not wish to examine any witnesses.

5. In view of above facts and circumstances the following points arouse for my determination and I have recorded my findings thereon as under: -

Sr. No.	Points for Determination	Findings
1.	Whether the Prosecution proves that, from 12/09/1996 to 07/08/2001 at Badlapur, Tal. Ambernath, Dist. Thane the accused cheated Informant's organization viz. Council of Architecture, New Delhi by dishonestly inducing the Council to deliver Registration certificate on the basis of false Diploma certificate alleged to be issued by L.S. Raheja School of Architecture and thereby committed an offence punishable U/sec.420 of the Indian Penal Code,1860?	In the affirmative
2.	Whether the Prosecution proves that on the aforesaid date, time and place accused prepared false document namely Diploma certificate alleged to be issued by L.S. Raheja	In the affirmative



School of Architecture and thereby committed an offence punishable U/sec.465 of the Indian Penal Code, 1860?

3. Whether the Prosecution proves that on the aforesaid date, time and place you accused fraudulently or dishonestly used as genuine a Diploma certificate alleged to be issued by L.S. Raheja School of Architecture which you knew at the time when used it to be a forged document and thereby committed an offence punishable U/sec.471 of the Indian Penal Code,1860? **In the affirmative**

4. Whether the Prosecution proves that on the aforesaid date, time and place Accused falsely represented that your name was entered in a register maintained by institute and used in connection with name of the Accused or to title any words or letters reasonably calculated to suggest that accused name is so entered in the registered and thereby committed offence punishable u/s.36 of the Architect Act, 1972 **In the negative**

5. What order? **The Accused is hereby convicted.**

: REASONS :

6. The Prosecution has laid its evidence in the nature of oral and documentary evidence which is recorded as follows: -

i. **Oral evidence of the Prosecution: -**



The prosecution has relied on the testimony of the following witnesses: -

<u>Sr. No.</u>	<u>Name</u>	<u>Nature of witness</u>
PW 1 (Exh.17)	Sushil Mahadu Gaikwad	Panch witness
PW 2 (Exh.29)	Anil Bhanji Velani	Witness
PW 3 (Exh.32)	Ramnik Shivdhan Okar	Witness
PW 4 (Exh.35)	Tulshiram Laxman Phale	Panch Witness
PW5 (Exh.44)	Altaf Ismail Patel	I.O.
PW 6 (Exh.47)	Shekar Babulal Koli	Witness
PW 7 (Exh.57)	Mahendra Baburao Chavan	Witness

ii. Documentary evidence of the Prosecution: -

The Prosecution proved the following documents during the trial: -

<u>Exhibit No</u>	<u>Particulars</u>
45	F.I.R.
46	Spot Panchanama
61	Seizure panchanama
62	Muddemal receipt
63	Arrest Panchanama of Accused No.2
64&65	Panchanama for taking Handwriting specimens of the Accused
66	Letter dtd. 08/10/2001 issued Chief Officer of Kulgaon-Badlapur Nagar Parishad.
67	List of Projects for which Application was filed by the Accused.
68	Building permission
69	Sanctioned plan



- | | |
|-------------|--|
| 70 | Letter dtd. 15/09/2001 received from L.S. Raheja school of Architecture, Mumbai. |
| 71 | Letter dtd. 14/09/2001 received from Maharashtra State Technical Education Board. |
| 72
Colly | Provisional certificate issued by Council of Architecture, dtd. 18/09/1996 along with certificate of registration. |

As to Point Nos. 01 to 3: -

7. As the discussion for point Nos.1 to 3 is common and since they are inter connected, to avoid repetition, it is desirable to discuss them together.
8. The prosecution has come up with the case that the Accused No.1 & 2 in furtherance of their common intention has prepared forged and fabricated documents in order to obtain certificate of registration from Council of Architecture. The charges levelled against the Accused are cheating and forgery. Before proceeding further, it is inevitable but necessary to refer to and rely upon the ingredients constituting the present offence.
9. The offence of cheating and dishonestly inducing delivery of property is define U/sec.415 & 420 of I.P.C. and the offence of forgery is defined U/sec.463 of I.P.C.

Sec. 420 – Cheating –

- i. There must be deception i.e. the Accused must have deceived someone;

- ii. That 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 part of valuable security or anything which is signed or sealed and which is capable of being converted into a valuable property;
- iii. The Accused did so dishonestly;

Sec. 465 – Forgery

- i. The making of a false document or part of it;
- ii. Such making should be with intent;
 - a) To cause damage or injury to (i) public or (ii) any person or
 - b) To support any claim or title or ;
 - c) To cause any person to part with property or ;
 - d) To cause any person who enter into express or implied contract or;
 - e) To commit fraud; or that fraud may be committed.

Sec. 471 – Using as genuine a forged document or electronic record-

- i. Fraudulent or dishonest use of a document as genuine;
- ii. The person is using it must have knowledge or reason to believe that the document is forged;

10. In order to understand the case of the prosecution, the story of the prosecution, as depicted in the chargesheet is required to be briefly stated. The prosecution has submitted that the present offence was committed by the Accused from 12/09/1996 to 07/08/2001. It is alleged that the Accused No.1 Sanjay Gopal Jadhav in furtherance of his common intention, along with the deceased Accused No.2



Jagdish Mukund Sarode, made false documents to obtain registration certificate from Council of Architecture, New Delhi. It is alleged that Accused No.2 played an active role, wherein he prepared forged and fabricated document namely certificate of Diploma in Architecture issued by Board of Technical Examination, Maharashtra State. It is further alleged that the Accused No.2 had knowledge that the Accused No.1 was not qualified Architect, even then, he prepared forged document, The said document was further forwarded by the Accused No.1 to the Council of Architecture, New Delhi and obtained certificate of Registration. The enormity of the offence did not stop here, the Accused No.1 on the basis of such registration certificate was involved in sanctioning 116 building development plans. The Informant after receiving the information, set the law in motion after making requisite inquiry.

CHEATING

- 11.** The offence of cheating and forgery are interconnected and interdependent. Considering the gravity of the offences alleged, the task before the Prosecution was enormous. The prosecution in order to discharge its burden could only examine the I.O. as its prime witness. It is a matter of record that the case was pending for over 02 decades, which led to non-availability of the Informant in spite of various efforts. Nonetheless, the prosecution has heavily relied on the testimony of the I.O.

- 12.** The PW-5 Patel (I.O.) has stated in his evidence that in 2001 he received a complaint from the Council of Architecture, New Delhi.

Pursuant to the said complaint, notice was issued to the Informant. On 07/08/2001, when he was holding charge as police station officer, he recorded the F.I.R. bearing C.R. No.71/2001. Later on the investigation was given to the PW-5 Patel. During the course of investigation, the I.O. recorded the details of crime at Exh.46. The I.O. thereafter, with the help of Informant, seized the letter written by the Accused, Application for registration as Architect, certificate G.D. Arch. S.S.C. certificate, experience certificate and another letter written by the Accused. The said property search and seizure panchanama was effected along with two independent Panch witnesses, who during their evidence, did not support the case of the prosecution. The I.O. has himself admitted the contents of the panchanama which was later on marked Exh.61. The panchanama is produced in original bearing signatures of Panch witnesses and I.O. The I.O. thereafter, deposited the seized documents and prepared Muddemal receipts, which are placed at Exh.65. The I.O. thereafter, on the basis of available evidence, arrested the accused. The I.O. has obtained handwriting specimen of the Accused. The same were obtained in the presence of panch witnesses, who did not support the case of the prosecution later. The I.O. has deposed that the panchanama effecting specimen handwriting dtd. 09/08/2001 was effected in his presence. Since the same was produced in original and bearing the signature of I.O. the same was marked as Exh.64.



13. In order to unearth the crime, the I.O. had written to various institutions including that of L.S. Raheja school of Architecture

and Maharashtra State Technical Education Board. The L.S. Raheja school of Architecture responded to the I.O. vide their letter dtd.15/09/2001. The same is placed marked as Exh.70. The letter was addressed to I.O. on the letter-head of L.S. Raheja school of Architecture. Since, the document is in original, and addressed to the I.O., who made correspondence while discharging his official duties as public servant, thus the contents can be read in evidence. Further since the letter was addressed to him, his evidence to that effect would require to be treated as Direct evidence. The contents of the said letter are crucial hence they are reproduced below: -

“आमच्या कार्यालयीन कागदपत्रान्वये श्री संजय गोपाळ जाधव या विद्यार्थ्यांचे नांव जून १९९२ च्या अंतिम वर्षाच्या निकाल पत्रिकेत नसून विद्यार्थ्यांचा आसन क्रमांक २५०२ व प्रमाणपत्र क्र.१९५१९ हा नोंदवहीतील इतर विद्यार्थ्यांच्या क्रमांकाशी जुळत नसल्याचे आढळून आले आहे. तरी आपण यापूढील योग्य ती कार्यवाही करावी”.

14. Further, the secretary of the Maharashtra State Technical Education Board, vide his letter dtd. 14/09/2001 has responded to the I.O. The said letter being an original one, bearing the signature of the Secretary of the Maharashtra State Board of Technical Education and written on their letter-head, addressed to the I.O. was marked as Exh.71. The secretary of the Maharashtra State Board of Technical Education has categorically stated that :-

“उपरोक्त संदर्भिय पत्रासोबत पाठविलेले श्री संजय गोपाळ जाधव यांचे **DIPLOMA IN ARCHITECTURE** जून, १९९२ चे प्रमाणपत्र मंडळाच्या कार्यालयातील अभिलेखावरून तपासले असता श्री संजय गोपाळ जाधव या विद्यार्थ्यांचे नांव अभिलेखामध्ये नाही. परंतु प्रमाणपत्राचा मजकूर मंडळामार्फत देण्यात येणा-या प्रमाणपत्राच्या मजकूराशी जुळत आहे. सदर विद्यार्थ्यांस मंडळाकडून प्रमाणपत्र देण्यात आलेले नाही. तरी याबाबतची पुढील कार्यवाही आपल्या स्तरावर करण्यात यावी ही विनंती”.

15. Perusal of these certificates reveal that the I.O. was informed by the concerned institutions having relevant records concerning the case that the certificate was not issued to any person named as Accused No.1. It is not in dispute that the concerned I.O. has received the documents during the course of Investigation. Shri. Dukare appearing for the Accused No.1 could not bring anything on record which could raise doubt on the genuineness of the said letters. Shri Dukare tried to harp upon the fact that after receipt of the letters at Exh.70&71, the I.O. did not visit the concerned institutes. It is important to note that once the I.O. received the response to the query raised by him, it was not expected of him to visit the concerned institutes. Moreover, it is not the case of the prosecution that the forged documents were prepared at those institutes. The I.O. was competent to depose on these letters since those letters were marked to him, especially to his letter seeking relevant information. In view of Section 47 of the Indian Evidence Act,1872 the fact of receipt of the response i.e. letters at Exh.70 & 71 is a relevant fact. The opinion of the I.O. assumes importance since these letters were written in response to the letters written



by the I.O. In order to prove the contents of a document, the prosecution was required to submit the primary evidence i.e. the letters in original, which are brought on record by the prosecution at Exh.70&71.

16. Secondly the prosecution must prove that the same were written by the person who has purported to have written them, in order to establish this the prosecution has examined PW-5 i.e. the I.O. His testimony read with Section 47 of the Indian Evidence Act, 1872 assumes importance, thereby proving the contents of the original letter. Further the letter at Exh.71 is written by the Secretary of Maharashtra State Technical Education board, which is a public document relevant under section 35 of the India Evidence Act, 1872, the letter was written by the Secretary in discharge of his official duties. The Maharashtra State Board of Technical Education Act, 1997 especially section 20 states that he is an executive officer of the board. Further Section 52 states that the employees of the board are the public servants. Thus, the document at Exh.71 is an official public document prepared in discharge of the official duties. It is apposite to refer to the observation of the Hon'ble Calcutta High Court in the case of **Octavious Steel Co. Ltd. V/s. Endogram Tea Co. Ltd.**¹ Wherein the Hon'ble High Court while referring to the observations of the Hon'ble Apex Court in Kanwarlal Gupta V/s. Amarnath Chawla & Ors.² has held that

¹ AIR 1980 Cal 83
² AIR 1975 SC 308

“7. This case lays down two principles: (1) Original public documents including their contents can be proved by mere production in court without formal proof of their contents, (2) The contents of these documents will be treated as evidence with probative value although the writer of the documents will not be called as a witness.

13. The rule of hearsay may not stand the way of proving public documents because once it is proved that the documents are official records or official correspondence, the court has to raise the presumption under Section 114(e) of the Evidence Act. The question of “hearsay” was not expressly taken in (1975) 3 SCC 646: AIR 1975 SC 308 but the counsel for the respondent did expressly object against the admissibility of the chart on the ground that he would not be able to cross examine the writer or the person who used to maintain the public records out of which the chart was prepared. But the Supreme Court overruled the objection by saying “That is no argument.” This establishes that in the opinion of the Supreme Court, the facts that the C.I.D. officer was not on oath and was not cross-examined, were immaterial for the purpose of admitting in evidence the contents of that chart. It has been expressly held by the Supreme Court in this case that the contents of a public document will be admissible in evidence in spite of the fact that the writer is not called as a witness.”



Thus, there is no requirement that the author of the letter at Exh.71 is required to be examined to prove the contents of the document. The contents of the document itself establishes that the Accused Sanjay Gopal Jadhav never obtained certificate from the Maharashtra State board of Technical Education. Taking into consideration these two documents alone, an inevitable inference is required to be drawn i.e. the documents submitted to obtain the Certificate of Registration were forged and fabricated documents.

17. The I.O. has also seized provisional certificate of registration & certificate of Registration, which are placed at Exh.72 collectively. These documents clearly show that the Accused No.1 had in fact obtained the registration certificate. The principal allegation against the Accused No.1 is that he cheated the Council of Architecture, New Delhi. From the facts brought on record it is proved that there was a deception which was played by producing the forged documents, these documents were used to induce the Council of Architecture, New Delhi to issue the Certificate of Registration. The intention to obtain that certificate was to dishonestly executed, thereby profession of architecture was commenced reaping the benefit of the forgery.

18. Further, it is important to peruse another set of documents seized by the Investigating officer, these are letter received from Kulgaon-Badlapur Nagar Parishad providing information about the building plans submitted by the Accused No.1 "As an Architect" (Exh.66). List of proposals submitted by the Accused No.1 as an Architect at Exh.67, building permission at Exh.68 and Sanctioned plan at Exh.69 which bears signature of the Accused. These documents clearly establish that the Accused was in fact carrying out the profession of "Architecture" on the basis of forged documents.

ROLE OF THE ACCUSED

19. The Prosecution has established that the documents used to obtain Certificate of registration were forged ones. It is necessary to establish that it was the Accused No.1 who was the real culprit behind this forgery. In order to connect the Accused No.1. the only best evidence with the prosecution was the PW-5 Patel (I.O.) The testimony of the PW-5 (I.O.) assumes importance since the allegations stated in the F.I.R. (Exh.45) are required to be connected by the Investigating Officer. In fact, the F.I.R. itself was proved at the instance of the I.O. who happens to be the officer who was first privy to the facts constituting an offence.
20. The I.O. has deposed that on 07/08/2001 when he was working as Police Station Officer (PSO) the Informant visited the police station to record his statement. It was the I.O. who recorded his statement and was privy to the first-hand information given by the Informant. It is settled law that anyone can set criminal law into motion, in this case it was the Informant who initiated to register the F.I.R. against the Accused. Even the Defence counsel Shri Dukare did not dispute registration of the F.I.R. Accordingly, the prosecution proved that the criminal law was set in motion through the F.I.R. at Exh.45. The I.O. during his deposition explained the course of action which was followed by him wherein he visited the Spot with the two Panch witnesses.
21. Unfortunately for the prosecution, the Panch witness did not support the case of the prosecution. It was surprising to observe

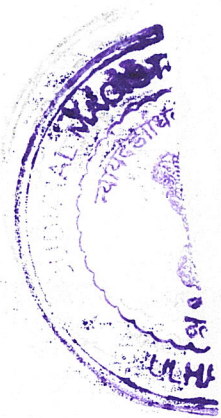


that the Panch, PW-4 Phale, who had acted as Panch witness in many cases conveniently retracted his statement given in the Spot Panchnama (Exh.46) & Seizure Panchnama (Exh.61). It is a matter of record that the PW-4 Phale had admitted in his cross examination that he was Panch in many cases, it is therefore expected of him to know why documents are required to be executed in his presence, he cannot escape from his responsibility from stating the truth. He has conveniently stated that he merely signed the documents. The entire deposition of the PW-4 Phale, shows that he was intentionally not supporting the case of the prosecution in order to support the Accused No.1. The I.O. on the other hand deposed that he visited the spot i.e. the office of the Accused No.1 situated at Mahalaxmi Apartment, Behind Vaishali Theatre, Kulgaon. He was accompanied by two Panch witness viz. PW-1 Gaikwad and PW-4 Phale, the Spot and Seizure Panchnama clearly spells out the way the spot looked like and how the seizure was affected.

22. Further perusal of Seizure Panchnama (Exh.61) would reveal that it was the Accused No.1 who provided the documents to the I.O. Upon conjoint reading of the Spot and Seizure Panchnama, it reveals that it was the Accused No.1 from whose custody the documents were seized. It is unfortunate that the seized documents are not available on record which is reflected from the letter submitted by the In-charge of concerned police station at Exh,60. As deposed by the PW-5, the documents were seized by the I.O. during the investigation, during his examination in chief,

defence in their cross examination except for denial did not raise any dispute about the same.

- 23.** Further, the PW-2 Velani and PW-3 Okar did not support the case of the prosecution, they conveniently stated that they did not remember what had happened. It is surprising to know from these witnesses that though they are builders and developers themselves, they turned blind blind eye to what had happened in connection with the business they are into. The testimonies of the PW-2 to 4 analysed from above prospect and read with the testimony of the PW-5 I.O. and seizure of documents the Instance of the Accused No.1 (Exh.61) would show that it was the Accused No.1 who had submitted those forged documents to the Council of Architecture, New Delhi. If the version of the defence is to be accepted then, the recovery could never be at the instance of the Accused No.1. The Spot and Seizure Panchana (Exh Nos. 46 & 61) clearly shows that the Accused No.1 was in fact carrying out profession of Architecture. This shows that the real beneficiary of the cheating was the Accused No.1. The evidence of the I.O. on this aspect was crucial, the contents of letters at Exh. 70&71 read with Spot and Seizure Panchanama at Exh.46 & 61 clearly establish that it was none other than the Accused No.1, who ripped the benefits of cheating. Thus, the role of the Accused No.1 was clearly established. Further, the I.O. has identified the Accused No.1 and stated his role during his deposition.



24. The Ld. Advocate Shri. Dukare tried to put up a defence stating that there might be some other person carrying out the forgery and using the name of Accused No.1. This particular theory does not find any support since, the Accused No.1 did not immediately after getting knowledge of such act, raised an alarm with the police authorities or municipal authorities. Even the Accused No.1 has not denied his signature on sanctioned plan Exh.69. Further, no such defence was taken by the Accused in his statement U/sec.313 of Cr.P.C. The Accused No.1 being a responsible citizen was duty bound to complain of such impersonation amounting to a serious offence in the eyes of law. Such inaction speaks volume about the fallacious defence set up by the Accused No.1.

EVIDENCE OF I.O.

25. The entire case of the prosecution is based on the testimony of the PW-5- Patel (I.O.) who is a lone witness deposing in support of the prosecution. It is important to note that the I.O. of any case is tasked with unearthing a crime within four corners of law. It would be wholly unjust to assume that he is an interested witness. Merely taking into account his role, it cannot be stated that he is an interested witness.
26. The Hon'ble Apex Court in catena of judgments has observed that a prosecution case can rest upon the testimony of the I.O. alone. It is a settled position of law that the law considers weight of a witness than their numbers. The sec.134 of Indian Evidence Act,1872 encompasses principle which states that "*No particular*

number of witnesses shall in any case be required for the proof of any fact.” The Hon’ble Supreme Court in the case of Namdeo V/s. State of Maharashtra³ has observed as follows: -

“28. From the aforesaid discussion, it is clear that Indian legal system does not insist on plurality of witnesses. Neither the legislature (Section 134 of the Evidence Act, 1872) nor the judiciary mandates that there must be particular number of witnesses to record an order of conviction against the accused. Our legal system has always laid emphasis on value, weight and quality of evidence rather than on quantity, multiplicity or plurality of witnesses. It is, therefore, open to a competent court to fully and completely rely on a solitary witness and record conviction. Conversely, it may acquit the accused in spite of testimony of several witnesses if it is not satisfied about the quality of evidence. The bald contention that no conviction can be recorded in case of a solitary eyewitness, therefore, has no force and must be negated.”

(Emphasis supplied)

27. The Hon’ble Supreme Court in another case viz. Kashmiri Lal V/s. State of Haryana⁴ observed as follows: -

“9. As far as first submission is concerned, it is evincible from the evidence on record that the police officials had requested the people present in the ‘dhaba; to be witnesses, but they declined to cooperate and, in fact, did not make themselves available. That apart, there is no absolute command of law that the police officers cannot be cited as witnesses and their testimony should always be treated with suspicion. Ordinarily, the public at large show their disinclination to come forward to become witnesses. If the testimony of the police officer is found to reliable and trustworthy, the court can definitely act upon the same. If in the course of scrutinising the evidence the court finds the evidence of the police officer as unreliable and untrustworthy, the court


³ (2007) 14 SCC 150

⁴ (2013) 6 SCC 595



may disbelieve him but it should not do so solely on the presumption that a witness from the department of police should be viewed with distrust. This is also based on the principle of quality of the evidence weighs over the quantity of evidence. These aspects have been highlighted in State Of U.P v. Anil Singh., State, Govt. of NCT of Delhi v. Sunil and Ramjee Rai v. State of Bihar. Appreciating the evidence on record on the unveil of the aforesaid principles, we do not perceive any acceptable reason to discard the testimony of the official witnesses which is otherwise reliable and absolutely trustworthy.”

(Emphasis supplied)

- 
28. Thus, it is clear that the testimony of a police officer, if found reliable and trust worthy, can be relied upon to assert and support the case of the prosecution. In the present case, the I.O. has played an active role to investigate the offence alleged against the Accused. The defence, apart from bringing up the facts not investigated by him, could not really bring anything on record, which would shake his credit and make his testimony unreliable. In an investigation, the prosecution must bring on record the facts, if proved, which would constitute the ingredients of offence alleged against the Accused. In the case before hand, the I.O. has put on record the facts which he investigated, which were in the nature of his oral deposition (Exh.44), the Response letters received from L.S. Raheja school of Architecture, Mumbai. (Exh.70), Maharashtra State Board of Technical Education (Exh.71), Spot Panchnama (Exh.46) and Seizure Panchnama (Exh.61). These four documents showcase the fact that forged certificate was produced and it was the Accused No.1 who did so. It is not the case of the prosecution, emanating from the F.I.R., that the Accused No.1 personally visited the Council of

Architecture, New Delhi or L.S. Raheja School of architecture or the Maharashtra Technical Education board.

29. The F.I.R. alleges that the Accused No.1 Submitted false documents to obtain certificate of registration. The F.I.R.(Exh.46) categorically states that the documents were forwarded by the Accused No.1 on 12/09/1996 were received and provisional certificate was issued on 18/09/1996. There is one date i.e. 16/09/2001 which appears to be the date on which the council of Architecture received the documents forwarded by the Accused No.1. If this date is to be properly appreciated, the further part of the F.I.R requires to be analysed which states that on the basis of documents submitted by the Accused No.1 provisional certificate was issued to him on 18/09/1996, there is a typographical error, depicting year while recording the statement the recording officer put the year as 2001 instead on 1996. Shri. Dukare, pointing out this discrepancy argued that the entire case is nothing but a sham. It is apposite here to refer to the observations of the Hon'ble High Court in the case of **Iqbalmiya Ahmedmiya Shaikh and Others V/s. State of Maharashtra and Another**⁵ has held as follows: -

"7. In C.B.I. v. Tapan Kumar Singh, (2003) 6 SCC 175 : (2003) 6 SCC 175 : AIR 2003 SC 4140, the Honourable Supreme Court has held in paragraph 22 that "The law does not require the mentioning of all the ingredients of the offence in the FIR. It is only after completion of the



investigation that it may be possible to say whether any offence is made out on the basis of the evidence collected by the investigating agency” It is observed that an FIR is not an encyclopedia which must disclose all the facts and details relating to the offence alleged to have been committed. It requires no debate that an FIR is merely a report by the informant about the commission of a cognizable offence and it cannot be ruled out that minute details may not be mentioned. It cannot be ignored that an FIR pertains to an offence, which is alleged to have been committed and the informant, in a disturbed state of mind and shaken on account of a serious offence committed, approaches a police station for recording an FIR.”

Thus, minor errors or discrepancy in the F.I.R. would not by itself demolish the case of the prosecution, which otherwise based on the admissible evidence. The entire evidence of the PW-5-Patel (I.O.) appears to be trustworthy, requiring serious consideration. From the aforesaid discussion it is clear that the evidence of the PW-5-Patel (I.O.) can safely be relied even in the absence of evidence of any other witness including that of handwriting expert.

HANDWRITING EXPERT OPINION

30. Shri Dukare vehemently argued that the secondary evidence in the nature of copy of handwriting experts' opinion (Exh. 34) can not be read in evidence, since, conditions on the basis of which secondary evidence is permissible are not complied by the Prosecution. In support of his contention, he relied upon the following authorities.

- (i) J. Yashoda V/s. K. Shobharani Civil Appeal No. 2060/2007 dtd. 19/04/2007

- (ii) Govt. of Andhra Pradesh & ORS. V/s. Karri Chinna Venkata Reddy reported in A.I.R. 1994 SC 591
- (iii) Rajendra Prasad Bansal V/s. Mukesh Kumar Jain in Writ Petition No. 4364/2012(I) dtd. 11/09/2012.
- (iv) Bapurao s/o. Kisanrao Jamgade Anr V/s. State of Maharashtra reported in 2003 Cri. L.J. 2181.

31. It is a matter of record that the prosecution could not bring on record the original documents seized and forwarded to handwriting expert for their opinion. In fact, after lot of correspondence, a duplicate hand writing expert opinion was obtained and placed on record at Exh. 34. The police officers stated their inability to bring such documents vide their letter at Exh.60. I have thoughtful consideration to the aforesaid authorities cited by Shri. Dukare. It was incumbent upon the prosecution to not only produce the documents in original along with opinion of handwriting expert. Not only this, the handwriting expert was also required to be examined, the prosecution has miserably failed to do so. This fact will not come in the way of establishing the guilt of the Accused which is coming forth from the other documents placed on record, coupled with the unimpeachable testimony of the Investigating officer.

32. In view of the aforesaid discussion, the prosecution has clearly established the role of the Accused No.1 in the present crime. The evidence of P.W.5 Patel (I.O.) has established that the Accused No.1 in furtherance of his intention to carry out profession of



Architecture, dishonestly furnished the forged documents with the Council of Architecture, New Delhi, with a intention to obtain certificate of registration and carried out profession of Architecture by deceiving the Council of Architecture, New Delhi and making it believe that the Accused No.1 had requisite qualification to carry out the said profession. The unavoidable inference is required to be drawn is that the Accused in order materialize his ill intention prepared forged and fabricated documents and thereby deceived the Council of Architecture, New Delhi. Therefore, I answer point No.1 to 3 in the affirmative.

As to Point No. 04:

- 33.** The prosecution has also alleged commission of offence U/sec. 36 of the Architecture, Act, 1972. In order to bring home the present case under the purview of Sec. 36, the prosecution should show that the name of the Accused No.1 was never entered in the registered maintained by the Institute and even then, he was carrying out the profession of Architecture. It is matter of record that, the Accused was carrying out profession of Architecture, on the strength of the certificate of Registration Exh.72. The prosecution nowhere alleged that the name of the Accused No.1 was removed from the register maintained by the Institute and even thereafter, the Accused No.1 continued his profession. The prosecution could not bring on record any evidence, which establishes that the Accused No.1 continued to carry out the profession after removal of his from the register maintained by the Institute. Moreover, in view of Section 39 of Architect Act,1972

there is a bar on taking cognizance of the offences under Architect Act,1972 as the court can take cognizance of the offence only on the basis of complaint filed by the institute. Therefore, the cognizance of such offence is specifically barred on police report. Hence, I answer the point No.4 in the negative.

As to Point No. 05:

- 34.** As the prosecution has duly proved that the Accused No.1 Sanjay Gopal Jadhav committed an offence punishable under Section 420, 465, 471 of the Indian Penal Code, 1860, it is important to hear the accused on the point of sentence.

KAUSTUBH
NAGESH
MARATHE

Digitally signed by
KAUSTUBH NAGESH
MARATHE
Date: 2022.04.05
12:32:25 +0530

Kaustubh Nagesh Marathe
Judicial Magistrate First Class
(Court No.6), Ulhasnagar.

Place: Ulhasnagar.
Date: 05/04/2022

- 35.** The learned advocate Shri. P.P. Dukare for the accused No.1 submitted that the accused is the sole bread earning of his family. Considering his age and pendency of the case, shall be taken into consideration while awarding punishment. The accused shall be given benefit of probation of offender's act.
- 36.** The Ld. APP submitted that accused has no compelling circumstances to commit the offence. If the accused awarded minimum punishment, then wrong message spread in the society. It is the offence against the society. Therefore, maximum punishment be awarded to him.



37. It is pertinent to note that the Accused No.1 has committed offence of cheating and forgery. The offence does not stop here. The Accused has put up proposals for 116 building projects as an Architect. The life of residence these 116 buildings and residence surrounding these buildings is at stake. The Accused No.1 without possessing any qualification has prepared forged documents to usurp benefits arising out of such falsehood. In doing so, he has not only cheated the Government Authorities, but committed fraud on the society. Such harden criminals are required to be dealt with stern hands. No leniency or benefit of Probation of Offenders Act can be accorded to the present Accused No.1. The Accused No.1 stood so low in order to rip financial benefits that he did not even think about the life of the residents of those buildings which plans are sanctioned by him. For any profession, having requisite knowledge and experience is must, the government bodies have been incorporated only to accord designation/power after compliance of basic education and requisite experience. In the present case the Accused No.1 for his benefits has given a go by to such requirements by making forged document.

38. Therefore, considering material placed on record, taking into consideration the gravity of the offence, Accused No.1 deserve the stringent punishment. Even the state deserves to be compensated who is real victim of the present fraud committed by the Accused No.1. This court is empowered under section 357(3) Cr.P.C. to award compensation to the state in an offence in which fine does

not form a part of the substantive sentence. Hence, I proceed to pass following order: -

: O R D E R :

- 1) Accused- **Sanjay Gopal Jadhav**, is hereby convicted vide Sec.248(2) of Code of Criminal Procedure, 1973 for the offence punishable U/sec. 420 of the Indian Penal Code and sentenced to suffer Rigorous Imprisonment for 3 years (Three years) and pay fine of Rs.50,000/- (Rs. Fifty Thousand Only) In default he shall undergo Rigorous Imprisonment for further period of 06 months (Six months);
- 2) Accused- **Sanjay Gopal Jadhav**, is hereby convicted vide Sec.248(2) of Code of Criminal Procedure, 1973 for the offence punishable U/sec. 465 of the Indian Penal Code and sentenced to suffer Rigorous Imprisonment for 2 years (two years).
- 3) Accused- **Sanjay Gopal Jadhav**, is hereby convicted vide Sec.248(2) of Code of Criminal Procedure, 1973 for the offence punishable U/sec. 471 of the Indian Penal Code and sentenced to suffer Rigorous Imprisonment for 2 years (two years).
- 4) The Accused **Sanjay Gopal Jadhav** is hereby acquitted from the offence u/s. 36 of Architect Act,1972;



JUDGMENT
(Exh.78)

RCC No. 956 of 2001
State v/s. Sanjay Gopal
Jadhav & another

:CERTIFICATE:

I affirm that the contents of this P. D. F. file are same word to word, as per the original order.

Name of the Stenographer

: Shri N. P. Kshirsagar

Court

: 6th Jt. C.J.J.D.&
J.M.F.C,
Ulhasnagar

Date of Judgment

: 05.04.2022

Order signed by the P. O.

: 05.04.2022

Order uploaded on

: 05.04.2022

Sd/-

(Naresh Parshuram Kshirsagar)
Stenographer Grade-III



- 5) The Accused **Sanjay Gopal Jadhav** is directed to pay compensation of Rs.2,00,000/- to the state under section 357(3) of the Code of Criminal Procedure, 1973 within the period of 3 months from today;
- 6) The accused Sanjay Gopal Jadhav was arrested on 09/08/2001 and was released on bail on 20/08/2001 i.e., 12 days. The Accused Sanjay Gopal Jadhav is entitled for Set off as per provisions of Section 428 of the Code of Criminal Procedure, 1973 for the period already undergone by him.
- 7) All the sentenced shall run concurrently.
- 8) The accused to surrender his bail bonds.
- 9) The Copy of this Judgment be forwarded to the Council of Architecture, New Delhi and Kulgaon-Badlapur Municipal Council, Badlapur for necessary action
- 10) The copy of judgment given to the accused free of cost.

The Judgment dictated and delivered in Open Court.

KAUSTUBH
NAGESH
MARATHE

Digitally signed by
KAUSTUBH
NAGESH MARATHE
Date: 2022.04.05
12:32:43 +0530

Place: Ulhasnagar.
Date: 05/04/2022

Kaustubh Nagesh Marathe
Judicial Magistrate First Class
(Court No.6), Ulhasnagar.