

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Revision Application No.106 of 2025

Applicant : Ms. Priyanka Devi D/o Raj Kumar,
Through Mr. Mukesh Kumar, advocate

Respondent : The State
Mr. Sharafuddin Jamali, DAG

Date of hearing : 23.05.2025

Date of order : 30.05.2025

ORDER

KHALID HUSSAIN SHAHANI, J. --- The applicant invokes the revisional jurisdiction of this court calling in question the judgment dated 17.04.2025 passed by the learned Additional Sessions Judge-II, Karachi (South), in Criminal Appeal No. 60 of 2025. The impugned appellate judgment maintained the conviction of the Applicant, Ms. Priyanka Devi, for offence under Section 471 PPC but altered the sentence from three years simple imprisonment to the imprisonment already undergone, with a fine of Rs.20,000/-. The applicant seeks to set aside this conviction and sentence and prays for her acquittal.

2. The prosecution's case originated from an Enquiry No.158/2024, dated February 20, 2024, initiated by the Federal Investigation Agency upon receipt of a letter dated February 13, 2024, from U.S. Consulate General at Karachi. The letter alleged that Ms. Priyanka Devi (the Applicant herein) presented fake/bogus documents for obtaining a U.S. Student F-1 Visa. Specifically, on October 10, 2023, during her visa interview at the U.S. Consulate General Karachi, Ms. Priyanka Devi allegedly admitted to presenting a counterfeit degree and transcript from the University of Karachi. The letter further stated that Ms. Devi contacted Marium Adil from Global Step, an education consultant, who advised her to obtain a fraudulent bachelor's degree and transcript for admission to recommended universities, as Ms. Devi only possessed intermediate education. Ms. Devi verbally informed that a Mr. Aman arranged the counterfeit bachelor's degree in Business Administration & Commerce from the University of Karachi. Based on these facts, the

U.S. Consulate referred the matter to the FIA for necessary investigative action.

3. During the preliminary inquiry, Ms. Devi reportedly disclosed that she, being an intermediate pass and desirous of pursuing higher education in the USA, contacted Ms. Marium Adil, who ran a consultancy office named M/s. Global Step. Ms. Adil allegedly advised Ms. Devi to obtain a fake bachelor's degree for a U.S. Study Visa. Subsequently, Ms. Devi obtained a fake Bachelor's Degree in Business Administration & Commerce, purportedly from the University of Karachi, along with a marksheet, through Syed Amanullah Naeem, against a payment of PKR 100,000/- made via banking channels. Ms. Devi then forwarded scanned copies of her passport, CNIC, the fake degree, and other documents. Under Ms. Adil's instructions, Ms. Devi received admission letters from various U.S. universities. She transferred a total of PKR 1,396,000/- to Ms. Marium Adil's firm and personal accounts. Ms. Devi also deposited PKR 55,500/- as interview fees. Ms. Devi attended visa interviews on July 17, 2023, and August 23, 2023, both times resulting in rejection. A third attempt also led to administrative processing. During this period, Ms. Devi received a call from the U.S. Consulate requesting bank statements and tax documents, which Ms. Marium Adil allegedly typed and forwarded via email. Ms. Devi ultimately stated that she knew the BBA degree, marksheet, and letters from Hashmi Law Associates & Consultants were bogus/fake, but claimed they were provided on Ms. Marium Adil's instructions. Based on these facts, FIR No. 27/2024 was registered against Ms. Priyanka Devi, Ms. Marium Adil, Syed Amanullah Naeem, and others, for offence under Sections 420, 468, 471, and 109 of PPC.

4. After the usual investigation, the I.O. submitted an interim charge sheet against Ms. Priyanka Devi, Ms. Marium Adil, and Syed Aman Naeem, and absconding accused Rashid Qadri. Cognizance was taken, copies were supplied to the accused, and a formal charge was framed on July 10, 2024, for under Sections 420, 468, 471, 109, and 34 PPC. The accused pleaded not guilty and claimed trial. Rashid Qadri later joined the trial. The prosecution produced four witnesses viz. PW-01 P.I. Babar Ali, the complainant who supported the prosecution's case and produced

various documents including the fake degree (Ex-07/C), marksheet (Ex-07/D), bank statements (Ex-07/E, Ex-07/F, Ex-07/H), visa applications (Ex-07/I, Ex-07/J, Ex-07/K), and the FIR (Ex-07/N). PW-02 SIP Syeda Saba Jafferi. Investigation Officer, who also supported the prosecution and produced the bank statement of accused Syed Aman Naeem (Ex. 08/A) showing receipt of Rs. 80,000/- from Priyanka Devi, a statement from SSGC company (Ex-08/C), and the Halfia Statement of accused Rashid Qadri (Ex. 08/F). She also produced a letter from the University of Karachi (Ex-08/D) indicating the degree was fake. PW-03 SIP Fariyal Abida, a witness to the memo of arrest. PW-04 PI Shaista Imdad, the second Investigation Officer, who produced the bank statement of accused Marium Adil (Ex. 10/F) showing receipt of Rs. 1,236,000/- from Priyanka Devi, and the verification report from the Controller Examination of the University of Karachi (Ex-10/C) confirming the degree was forged. She also produced the Ex-Post Facto permission for FIR registration (Ex. 10/G). After the prosecution closed its evidence, statements of all accused persons under Section 342 Cr.P.C. were recorded, wherein they denied the allegations and professed innocence, but did not offer defense evidence. The learned Judicial Magistrate-XI, Karachi South, after hearing arguments and perusing the record, found the prosecution's case to be without doubt.

5. The court held that, the information disclosed by Priyanka Devi during FIA police custody, leading to the discovery of facts (like payment to Aman Naeem and subsequent arrest of Aman Naeem and Rashid Qadri), was admissible under Article 40 of the Qanun-e-Shahadat Order, 1984. The bank transaction showing Rs. 80,000/- transferred from Priyanka Devi to Aman Naeem was proved, despite Priyanka Devi's counsel's contention about her bank statement not showing it, as the account number was specified. Aman Naeem's bank account was opened on fake documents, which he failed to rebut. Rashid Qadri's Halfia Statement (Ex. 08/F) was a voluntary confession of guilt, corroborated by his failure to cross-examine it. Marium Adil received Rs. 1,236,000/- from Priyanka Devi, and her assistance was crucial in arranging the fake documents, thus proving abetment under Section 107 PPC. Priyanka Devi intentionally paid for and used the fake degree, and her repeated

visa applications corroborated the prosecution. The U.S. Consulate's complaint was not anonymous. The University of Karachi's letter (Ex-10/C) proved the degree was forged. The non-appearance of U.S. Consulate officials was justified by diplomatic immunity. The FIA followed SOPs, including obtaining ex-post facto permission for FIR registration. The documentary evidence (bank statements) prevailed over oral arguments. The chain of evidence connected all accused. Consequently, the learned Judicial Magistrate convicted all accused persons under Section 245(2) Cr.P.C. and particularly convicted accused Priyanka Devi for offence under Section 468 R/W 109 and 34 PPC i.e. Simple Imprisonment (S.I.) for Two Years and Six Months, with a fine of Rs. 20,000/- (in default, one month S.I. more). Under Section 471 PPC: S.I. for Three Years, with a fine of Rs. 20,000/- (in default, two months S.I. more). Under Section 417 PPC: S.I. for One Year, with a fine of Rs. 5,000/- (in default, 15 days S.I. more). The benefit of Section 382-B Cr.P.C. was extended to all accused except Rashid Qadri.

6. Aggrieved by the trial court's judgment, the Applicant, Ms. Priyanka Devi, preferred an appeal (Appeal No. 60 of 2025) before the learned Additional Sessions Judge-II, Karachi (South). The Appellate Court, after hearing the appeal, was pleased to acquit the Applicant on two counts (Sections 417 PPC and 468 PPC). However, the Appellate Court maintained the conviction of the Applicant under Section 471 PPC. While upholding this conviction, the Appellate Court altered the sentence from three years simple imprisonment to the imprisonment already undergone, with a fine of Rs. 20,000/-.

7. Mr. Talreja, the learned counsel for the Applicant, vehemently argued that the impugned judgment dated April 17, 2025, passed by the learned Additional Sessions Judge-II, Karachi (South), is arbitrary, illegal, and beyond the mandate of law. He reiterated and expanded upon the grounds raised in the revision application. He contended that no complainant from the U.S. Consulate or the University of Karachi appeared to depose about the sequence of events or verify the authenticity of the documents. The conviction under Section 471 PPC was based on presumption rather than proof beyond reasonable doubt. He stressed that the essential ingredient of Section 471 PPC, "knowing

or having reason to believe the document to be forged," was not established. He argued that if foundational charges like cheating or fraud were dismissed by the Appellate Court, the corollary charge of forgery (and its use) should also fail for lack of intent. He submitted that any alleged confession before the FIA police is inadmissible under Articles 38 and 39 of the Qanoon-e-Shahadat Order, 1984 (QSO), as Article 40 QSO does not apply because no fresh information leading to a new fact was discovered. He also argued that statements of co-accused against the Applicant are inadmissible under Articles 37 and 38 of QSO. He highlighted material and glaring contradictions, dents, flaws, and discrepancies in the prosecution witnesses' evidence, which were overlooked by both lower courts. He emphasized that the slightest doubt should go in favor of the accused, a principle the Appellate Court failed to consider. He pointed out that objections raised during evidence production were not decided by the trial court. He argued that the statement under Section 161 Cr.P.C. of the alleged complainant was not recorded, rendering his deposition unreliable. Furthermore, he challenged the legality of the applicant's arrest from her house during inquiry, alleging a fake memo of arrest showing arrest from outside the Consulate General Office, without signatures of "musheers," thereby infringing due process rights. He also contended that FIA officials failed to follow FIA (Inquiry & Investigation) Rules, 2002, and FIA Standing Orders No. 05/2020 regarding inquiry and verification of anonymous complaints. He forcefully argued that the trial court illegally awarded a sentence of three years under Section 471 PPC, whereas the maximum punishment provided for this offence is/was two years. He cited an unreported judgment of this Court dated September 12, 2024, in Criminal Appeal No. S-64 of 2024, asserting that this ground alone was sufficient to set aside the conviction. He also contended that the Electronic Transaction Ordinance, 2002, was misapplied, as the authenticity of electronic documents requires verification of the originator and addressee (Section 5 read with Section 13). He submitted that all accused were initially convicted on the same evidence, but the Appellate Court acquitted three co-accused, while only maintaining the conviction of the applicant. This, he argued, is sufficient to demonstrate that the prosecution failed to prove its case beyond reasonable doubt, and

the benefit of doubt should have been extended to the Applicant. He cited the golden rule of criminal jurisprudence: "It is better that ten guilty be acquitted rather than one innocent be convicted.". He lastly prayed for acquittal of present applicant.

8. The learned Deputy Attorney General, appearing for the State, defended the judgments of the lower courts, particularly the detailed findings of the trial court. He mainly argued, the prosecution's case is primarily based on irrefutable documentary evidence, including bank statements proving financial transactions between the accused, and the University of Karachi's letter confirming the forged nature of the degree. These documents, being computer-generated and admissible under the Banker's Books Evidence Act, 1891, carry significant legal weight and prevail over oral denials. The disclosures made by Priyanka Devi and Rashid Qadri while in FIA custody, which led to the discovery of facts (such as bank transactions, the fake account, and the involvement of other co-accused), are admissible under Article 40 of the Qanun-e-Shahadat Order, 1984. The trial court correctly applied this provision, as the information distinctly related to facts thereby discovered. The repeated attempts by Priyanka Devi to obtain a visa using the forged documents, coupled with the financial transactions and the admissions of her co-accused, clearly establish her knowledge ("knowing or having reason to believe") that the documents were forged and her fraudulent intent. The common intention and abetment among the accused were also sufficiently proven through the chain of circumstantial evidence. The U.S. Consulate's letter was not an anonymous complaint, as it was signed by a Special Agent. The non-appearance of U.S. Consulate officials as witnesses is justified by the Diplomatic and Consular Privileges Act, 1972, which grants them immunity from giving evidence. The FIA followed its Standard Operating Procedures (SOPs), including obtaining ex-post facto permission for FIR registration. Minor discrepancies or technicalities in the investigation should not be given undue importance when the substantive evidence is overwhelming. The PWs, being investigation officers themselves, are competent witnesses, and their statements under Section 161 Cr.P.C. are not strictly required for their own testimonies. The Appellate Court, after a thorough re-

evaluation, correctly upheld the conviction under Section 471 PPC, as the evidence clearly demonstrated Priyanka Devi's fraudulent use of a document she knew to be forged. The alteration of sentence to imprisonment already undergone reflects the Appellate Court's discretion and consideration of the circumstances, without undermining the conviction itself. The prosecution successfully established an unbroken chain of circumstantial evidence, connecting the accused from the procurement of the fake degree to its fraudulent use, leaving no reasonable doubt as to their guilt.

9. I have given careful and anxious consideration to the arguments advanced by the learned counsel for the Applicant and the learned Deputy Attorney General, and have meticulously re-examined the entire record, including the judgments of the trial and appellate courts.

10. The revisional jurisdiction of this Court is primarily concerned with examining the legality, propriety, and correctness of the findings of the subordinate courts. While it is not an appeal in disguise, this Court can intervene where there is a clear misapplication of law, a glaring omission, or a perverse finding leading to a miscarriage of justice.

11. A fundamental and glaring error that strikes at the root of the conviction under Section 471 PPC is the sentence awarded by the trial court. Section 471 PPC prescribes punishment "in the same manner as if he had forged such document." The punishment for forgery (Section 465 PPC) is imprisonment of either description for a term which may extend to two years, or with fine, or with both. The trial court, however, awarded three years simple imprisonment under Section 471 PPC. This is a clear instance of a sentence exceeding the statutory maximum. While the appellate Court altered the sentence to "imprisonment already undergone," this alteration does not rectify the fundamental legal flaw in the original sentence for Section 471 PPC. A sentence beyond the maximum prescribed by law renders the conviction under that section unsustainable, irrespective of subsequent modifications to its quantum. This point alone provides a strong basis for revisional intervention.

12. For a conviction under Section 471 PPC, it is not enough that a forged document was used; the prosecution must prove, beyond

reasonable doubt, that the accused knew or had reason to believe the document to be forged. While the trial court inferred this knowledge from Priyanka Devi's alleged confession during interrogation and her repeated attempts to obtain a visa, the defense has consistently argued that her confession before the police is inadmissible under Articles 38 and 39 QSO, and that Article 40 QSO's strict conditions (distinct discovery of a fact) were not met. The trial court's reliance on the "Halfia Statement" of Rashid Qadri as a "confession before the police or written admission of guilt" also raises concerns regarding its admissibility and voluntariness, especially when he later claimed his signature was obtained by force. The principle of "benefit of doubt" demands that if there is any reasonable doubt regarding the accused's knowledge or intent, that doubt must be resolved in his/her favor.

13. The Appellate Court acquitted Priyanka Devi on charges under Sections 420 and 468 PPC, and presumably acquitted other co-accused on similar evidence. Yet, her conviction under Section 471 PPC was maintained. This creates an inconsistency. If the appellate Court found insufficient evidence for cheating (417 PPC) and forgery (468 PPC) against Priyanka Devi, or against other co-accused involved in the "arrangement/preparation" of the forged document, then the logical corollary would be to scrutinize the conviction for using that very forged document (471 PPC) with even greater rigor, especially concerning the element of knowledge and intent. The principle that "all accused persons were convicted in the same set of evidence, however learned Appellate Court acquitted other three accused from the charges however only convicted the Applicant" strongly suggests that the benefit of doubt was not uniformly applied.

14. While the trial court addressed some procedural objections, several points raised by the applicant's counsel deserve attention. The absence of a direct complainant from the U.S. Consulate or the University of Karachi, despite the diplomatic immunity aspect, means the primary evidence regarding the "forged" nature of the document and its impact was indirect or based on official correspondence rather than direct testimony. The alleged irregularities in the arrest memo (lack of musheers' signatures, disputed place of arrest) and the non-recording of a

proper Section 161 Cr.P.C. statement for the initial complainant (if distinct from the I.O.s) cumulatively cast a shadow on the prosecution's case, especially when the evidence is not overwhelmingly conclusive.

15. The cumulative effect of the aforementioned points, particularly the statutory illegality in the sentence for Section 471 PPC, the ambiguities surrounding the establishment of mens rea beyond reasonable doubt, and the inconsistent treatment of co-accused, leads this Court to conclude that the prosecution has not discharged its burden of proving the charge against the Applicant under Section 471 PPC beyond all reasonable doubt. The golden rule of benefit of doubt must be applied. It is a fundamental tenet of criminal jurisprudence that the prosecution must stand on its own feet, and any doubt, however slight, must go to the benefit of the accused.

16. In view of the detailed analysis, this Court finds that the conviction of Ms. Priyanka Devi under Section 471 PPC, as maintained by the learned Additional Sessions Judge-II, Karachi (South), is not sustainable in law. The sentence awarded by the trial court for this section was illegal, exceeding the maximum prescribed by the statute. Furthermore, the prosecution failed to establish the essential ingredient of "knowledge or having reason to believe" the document to be forged with the requisite degree of certainty, and the benefit of doubt arising from various inconsistencies and procedural concerns was not extended to the applicant. Therefore, the revision application is allowed. The impugned judgment dated 17.04.2025, passed by the learned Additional Sessions Judge-II, Karachi (South), upholding the conviction of Ms. Priyanka Devi under Section 471 PPC, is hereby set aside. The conviction and sentence awarded to the applicant, Ms. Priyanka Devi, under Section 471 PPC is hereby rescinded. The applicant Ms. Priyanka Devi, is acquitted of the charge under Section 471 PPC. The R&P of Criminal Case No. 1998/2024 be returned to the concerned court forthwith.

J U D G E