

IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(CRIMINAL APPELLATE JURISDICTION)

Present:

Mr. Justice Yousuf Abdullah Suman

CRIMINAL APPEAL NO. 3183 OF 2021

In the matter of:

Md. Khalilur Rahman @ Md. Khalilur  
Rahman Mondol

.....Convict-Appellant

**-Versus-**

The State and another

.....Respondents

Mr. Raghbir Rouf Chowdhury, Senior  
Advocate with

Mr. Anisul Hassan, Advocate

Mr. Mohammad Syeed Abrar, Advocate

Mr. Hossain Mohammad Shahidul, Advocate

Mr. Refat Bin Reza Rafi, Advocate

Mr. Syed Md. Kaiser Alam, Advocate.

..... For the appellant.

Mr. Md. Ahsanullah, D.A.G. with

Mr. Md. Shahadat Hossain (Adil), A.A.G.  
with

Mr. Md. Giasuddin Gazi, A.A.G.

...For the Respondent-State

Mr. Md. Kamruzzaman (Kachi), Advocate

...For the ACC Respondent No.02.

Heard On : 16.06.2026 and 17.06.2026.

Judgment on: 30.06.2026.

*Yousuf Abdulla Suman, J:*

This criminal appeal under Section 10 of  
the Criminal Law Amendment Act, 1958 is directed

against the judgment and order of conviction and sentence dated 29.03.2021 passed by the learned Special Judge (District and Sessions Judge), Jashore, in Special Case No. 22 of 2018 arising out of Shailkupa Police Station Case No. 21 dated 15.08.2008 corresponding to G.R. No. 235 of 2008 and Dudok G.R. No. 3 of 2014 convicting the appellant under Section 468 of the Penal Code and sentencing him to suffer rigorous imprisonment for 7 (seven) years and also to pay a fine of Tk. 20,000/- (Twenty thousand), in default to suffer simple imprisonment for a further period of 6(six) months.

The prosecution case as stated in the FIR is that, a Union Land Assistant Officer, Md. Abdul Halim, lodged an ejahar with Shailkupa Police Station on 15.08.2008 alleging *inter alia* that an area of 8 decimals of land at Dag Nos. 5545 and 5546 in Shailkupa Mouza No. 51 was recorded in Kas Khatian No.1 of S.A. record. Appellant Md. Khalilur Rahman by creating a forged title deed on 27.12.1973 showing one

Shushoma Bala Saha as the seller and himself as the buyer claimed the title in the said land and filed the Title Suit No. 34 of 2005 before the Senior Assistant Judge, Shailkupa. It is alleged that, Shushoma Bala neither executed nor did she register any of such deed in favour of the appellant, rather the appellant through an imposter created the said forged deed. Subsequently, he had withdrawn the said suit having the apprehension of being caught for his forgery. Upon making a query in the District Registrar, it was found that no such deed was executed on the said date of 27.12.1973 and thus it was proved that the said deed was forged. Apart from that, on the said land there was an old building worth about Tk. 20,00,000/- (Twenty lac) which the appellant demolished and misappropriated. The said forged deed came into the notice of the government after the appellant produced the same before the court in his Title Suit No. 34 of 2005 filed in the learned Senior Assistant Judge Court, Shailkupa.

The said ejahar gave rise to Shailkupa Police Station Case No. 21 dated 15.08.2008 corresponding to G.R. No. 235 of 2008 and Dudok G.R. No. 3 of 2014 under sections 409/420/467/468/471 of the Penal Code, 1860 read with section 5(2) of the Prevention of Corruption Act, 1947. Once the case was sent for trial before the Special Judge (District and Sessions Judge), Jashore, it was registered as Special Case No. 22 of 2018.

The case was investigated by the Anti-Corruption Commission (herein after referred to as the ACC). The ACC submitted charge sheet being no. 241 dated 15.10.2017 under sections 409/420/467/468/471 of the Penal Code read with section 5(2) of the Prevention of Corruption Act, 1947. The learned Special Judge (District and Sessions Judge), Jashore framed charge against the appellant under sections 409/420/467/468/471 of the Penal Code and under section 5(2) of the Prevention of Corruption Act, 1947; when the charge was read over and

explained to the appellant, he pleaded not guilty and claimed to be tried. The court then proceeded with the trial.

During the trial, the prosecution examined as many as 15 prosecution witnesses. After the closure of the prosecution evidence, the appellant was examined under section 342 of the Code of Criminal Procedure wherein he reiterated his innocence. On conclusion of the trial, the learned Special Judge found the appellant guilty for the commission of the offences under sections 420/468/471 of the Penal Code, 1860 and also under section 5(2) of the Prevention of Corruption Act, 1947, and awarded conviction and sentence with fine under section 468 of the Code as stated above. Hence the appeal.

Mr. Raghiv Rouf Chowdhury, the learned senior counsel appearing along with the learned counsel Mr. Anisul Hassan for the appellant, submits that this case is barred by section 195(1)(c) of the Code of Criminal Procedure

(herein after referred to as the Cr.PC) which provides that, in the event of an allegation of forgery described in section 463 of the Penal Code, if a forged document is created and produced before the court, the concerned court shall have to lodge the complaint; no individual or anyone other than the court, can initiate the case. He quotes the section:

*195. (1) No court shall take cognizance:-*

*(c) of any offence described in section 463 or punishable under section 471, section 475 or section 476 of the same Code, when such offence is alleged to have been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding, except on the complaint in writing of such Court, or of some other Court to which such Court is subordinate.*

In the instant case, he continues, the FIR has been lodged by an individual, a union land

officer, not by the court concerned. The other ingredients of section 195(1)(c) are also admittedly present in this case as the informant-cum-PW-1 stated both in his deposition as well as in the FIR that the alleged forged deed has been produced before the court in the Title Suit No. 34 of 2005 before the learned Senior Assistant Judge, Shailkupa wherein this appellant was a party, *i.e.*, the plaintiff in the said civil suit. With this backdrop, he submits, the learned Special Judge is strictly barred from taking cognizance of the offence, let alone proceeding with the trial of the case.

The learned counsel for the appellant further submits that, the instant issue of lodging complaint by the court alone- not by anyone else except the court, has long been settled in our jurisdiction which dates back to the case of *Muslim Khan vs. State* [1986] 38 DLR (AD) 60 wherein his Lordship Shahabuddin Ahmed, J held that "*there is no dispute that if an offence falls within the meanings of sub-section*

*(1)(c) of section 195 Criminal procedure Code no court shall take cognizance of it except on a complaint from the court concerned". In a numerous later decisions, our courts consistently followed this principle, such as, in Mrs Shahar Banoo vs. Mrs Wahida Khatun 1996 BLT (AD) 154; Kazi Forhad vs. Golam Mustafa [2007] 12 BLC (AD) 107; Abdur Rahman vs. State [2007] 59 DLR 683; Mahbubul Alam vs. State [2019] 71 DLR 13.*

With regard to the issue of section 468 which has not specifically been mentioned in section 195(1)(c), the learned counsel submits that, this section along with section 467, 420 are all covered by section 195(1)(c) by virtue of the expression 'any offence described in section 463'. Essentially, section 468 of the Penal Code is not an independent offence: it comprises section 463 and section 420, i.e., forgery and cheating respectively. The relevant part of the section reads as follows: whoever commits forgery (an offence defined in section

463), intending that the document forged shall be used for the purpose of cheating (an offence defined in section 420) shall be punished with .... There is therefore no reason to hold, he submits, that section 468 is not included in section 195(1)(c) of the Cr.PC. This issue too has been settled long ago in *Muhammed Ehsan vs. State* [1968] 20 DLR (WP) 132 wherein it was held that, *"In so far as the offences under sections 468 and 109, P.P.C. mentioned in the complaint are concerned, the former being just one kind of forgery as described in section 463 and the latter being one of abatement, both are fully covered by the provisions contained in clause (c) of sub-section (1) of section 195, Cr.P.C. the expression "any offence described in section 463" as occurring in the aforesaid provision gives a clear indication that all kinds of forgery are covered by it"*. This authority is also being consistently followed in our jurisdiction in the later decisions, such as, in

*Abdul Hai Khan vs. State* [1988] 40 DLR (AD) 226;  
*Abdur Rahman vs. State* [2007] 59 DLR 683.

The learned counsel for the appellant further submits that, a Special Judge exercising his authority under section 4 of the Criminal Law Amendment Act, 1958 cannot take into cognizance any offences barred by section 195(1)(c) of the Cr.PC inasmuch as under section 6 of the Act of 1958 a Special Judge shall apply the provisions of Cr.PC in the proceedings of the Court of Special judge unless they are inconsistent with the Act of 1958, as is held in *Muslim Khan vs. State*, supra, that provisions made under section 4 of the Criminal Law Amendment Act, 1958 enabling the Special Judge to take cognizance of an offence either on a complaint or police report cannot be construed as meaning that the requirement under clause (c) of section 195(1) Cr.PC for making a complaint in writing by the court concerned can be rendered nugatory and may be dispensed with, since section 6 of the Act of 1958 provides that

provisions of the Cr.PC which are not inconsistent with the provisions of the Act of 1958 shall be applicable in a trial held by a Special Judge under the special Act of 1958. He therefore submits that the Special Judge, Jashore erred in law by taking cognizance of the offence against the appellant which is barred by section 195 (1)(c) of the Cr.PC.

Finally, the learned counsel submits that, this case was filed against the appellant in 2008 during the regime of Army backed so-called caretaker government when series of cases were initiated against the politicians and others to oust them from politics. The instant case is a classic example of that, he contends. Our court later made robust observations on this issue holding that *“it can be safely held that Judges can take judicial notice of the then prevailing situation of the State, under which series of cases were initiated against the politicians, persons of high profile, businessman and other classes of people of this country during the*

*regime of Army backed so-called caretaker government. ... a vested quarter has influenced the Anti-Corruption Commission and the Anti-Corruption Commission had been used by a certain quarter to destroy the image of ... by instituting absurd and preposterous cases against ... political leader”*: *Sheikh Hasina vs State* [2011] 63 DLR 40. A similar observation has also been made in *Begum Khaleda Zia vs. State* [2026] 78 DLR (AD) 1, he added. The learned counsel for the appellant thus prays that not only the impugned judgment and order of conviction and sentence should be set aside, the whole proceedings from its inception of taking cognizance should be declared null and void.

Mr. Md. Kamruzzaman (Kachi), the learned counsel on behalf of the ACC, submits that the prosecution has proved the case beyond reasonable doubt under section 468 of the Penal Code, and the Special Judge considering the facts, circumstances and evidence on record rightly convicted the appellant and there is

nothing to interfere with the impugned judgment by this Hon'ble Court. He further submits that, section 195(1)(c) of the Cr.PC is not applicable in a proceeding of the court of Special Judge by virtue of section 4 of the Criminal Law Amendment Act, 1958. Furthermore, he contends that, section 468 of the Penal Code under which the appellant has been convicted and sentenced is not included in section 195(1)(c) of the Cr.PC. Hence, he prays for dismissal of the appeal.

Mr. Md. Ahsanullah, the learned Deputy Attorney General appearing for the State, concurring with the submissions of the learned counsel for the ACC, submits that the FIR, Charge Sheet and evidence - all are corroborating each other as to the guilt of the appellant, and as such he prays for dismissal of the appeal.

Heard the learned counsels for the parties, perused the petition of appeal and the other

materials on record, and examined the evidence and findings of the impugned judgment.

The gravamen of the point for determination here is whether the cognizance and trial of an offence under section 468 of the Penal code, under the instant case scenario, is barred by section 195(1)(c) of Code of Criminal Procedure. The text of this section has already been quoted above. The essential character of this section 195(1)(c) in its simplest term is that, if an accused creates a forged document and he produced that document before a court, then it is the court itself that shall have to lodge the complaint against such accused, not anyone else other than the court. And section 195(1)(c) puts bar on court stating that, no court shall take cognizance of such offence if the complaint is not lodged by the court concerned.

In the case in hands, the appellant has been accused of creating a forged title deed dated 27.12.1973 showing one Shushoma Bala Saha as the seller and himself as the buyer, and he

produced the said forged deed before the learned Senior Assistant Judge, Shailkupa in Title Suit No. 34 of 2005 claiming, being a plaintiff, the title in the land in question through this forged deed. Now, question is whether this case fits into the box of section 195(1)(c) of the Cr.PC.

The set boundaries of section 195(1)(c), as relevant to the instant case, are that (a) that there must be a forged document as described in section 463 of the Penal Code, *i.e.*, making a false document to support any claim or title, (b) that the said forged document be produced or given in evidence before a court, (c) that the accused be a party to the proceedings wherein such forged document has been used, and (d) that in such a scenario, the court shall not take any cognizance of the offence unless the complaint is lodged by the concerned court itself.

In the instant case of the appellant, all the above criteria are admittedly satisfied in that he has been accused of creating a forged

title deed dated 27.12.1973; that he admittedly produced the said deed before the learned Senior Assistant Judge, Shailkupa in Title Suit No. 34 of 2005 as is stated by PW1-cum-informant both in his deposition as well as in the FIR; that the appellant himself was the plaintiff in the said Title Suit No. 34 of 2005; and that the court concerned did not lodge the complaint, rather the complainant was an individual who is a union land officer.

This court therefore does not find any reason why the provisions of section 195(1)(c) shall not apply in the instant case. The leaned senior counsel for the appellant, Mr. Raghob Rous Chowdhury, has already submitted that it has long been settled in our jurisdiction that *“there is no dispute that if an offence falls within the meanings of sub-section (1)(c) of section 195 Criminal procedure Code no court shall take cognizance of it except on a complaint from the court concerned”*: *Muslim Khan vs. State*, supra. In a numerous later decisions,

as submitted by the learned counsel, our courts consistently followed this principle, such as, in *Mrs Shahar Banoo vs. Mrs Wahida Khatun*, supra; *Kazi Forhad vs. Golam Mustafa*, supra; *Abdur Rahman vs. State*, supra; *Mahbubul Alam vs. State*, supra. This court therefore subscribes to the submissions advanced by the learned counsel for the appellant.

It is pertinent to mention here that, the appellant has been found guilty under sections 420/468/471 and convicted and sentenced under section 468 of the Penal Code which has not specifically been mentioned in section 195(1)(c) of the Cr.PC. It bears mentioning here that, section 468 of the Penal Code is not an independent section: it comprises section 463 and section 420, i.e., forgery and cheating respectively. Section 468 describes: whoever commits forgery (an offence defined in section 463), intending that the document forged shall be used for the purpose of cheating (an offence defined in section 420) shall be punished with

.... On the other hand, section 195(1)(c) of the Cr.PC inscribed the expression “any offence described in section 463”. This expression clearly includes Section 468 and Section 420 of the Penal in section 195(1)(c) of the Cr.PC., and section 471 is already in there. There is therefore no reason to hold that section 468 is not included in section 195(1)(c) of the Cr.PC. This issue too has been settled long ago, as has been submitted by the learned counsel for the appellant, in *Muhammed Ehsan vs. State*, supra, wherein it was held that, “the expression ‘any offence described in section 463’ as occurring in the aforesaid provision gives a clear indication that all kinds of forgery are covered by it”. This authority is also being consistently followed in our jurisdiction in the later decisions, such as, in *Abdul Hai Khan vs. State*, supra; *Abdur Rahman vs. State*, supra.

As to the issue of whether a Special Judge can take cognizance of such offence exercising his authority under section 4 of the Criminal

Law Amendment Act, 1958, this court finds that such Special Judge has not been conferred any special power by this special Act of 1958 to entertain such offence disregarding the provisions of section 195(1) of the Cr.PC. More so, section 6 of the said Act of 1958 directed the Special Judge to follow the provisions of the Cr.PC in the proceedings of the court of a Special judge unless they are inconsistent with this Act. There is no known record of findings or interpretations by any authority that the provisions of section 195(1)(c) of the Cr.PC are inconsistent with the Act of 1958. Hence, I find no conceivable reason as to why section 195(1)(c) of the Cr.PC shall not apply to the proceedings of the court of a Special Judge. In *Muslim Khan vs. State*, supra, his Lordship Shahabuddin Ahmed, J observed that, the provisions of section 4 of the Criminal Law Amendment Act, 1958 cannot be construed to mean that section 195(1)(c) of the Cr.PC has been rendered nugatory or may be dispensed with.

To conclude, as to the submissions of the learned counsel for the appellant with regard to instituting politically motivated absurd and preposterous cases against the political leaders of the country, including the instant appellant, during the regime of Army backed so-called caretaker government in 2007-2009, this court refrains from making further remarks as the apex court of the land had already made robust observations on those issues in the cases of *Sheikh Hasina vs State*, supra, and *Begum Khaleda Zia vs. State*, supra, except to leave an affirmative note on record that this court too is attuned to the social realities of the time.

In the light of the above observations and findings, I hold that the very initiation of the proceedings against the appellant is barred by law and, as such, not only the impugned judgment of the court below but also the entire proceedings should be set aside.

Accordingly, the appeal is allowed.

In the result, the impugned judgment and order of conviction and sentence dated 29.03.2021 passed by the learned Special Judge (District and Sessions Judge) Jashore in Special Case No. 22 of 2018 corresponding to G.R. No. 235 of 2008 and Dudok G.R. No. 3 of 2014 arising out of Shailkupa Police Station Case No. 21 dated 15.08.2008, is hereby set aside.

The appellant, having not been found guilty of the charges leveled against him, stands acquitted.

The appellant is discharged from his bail bonds.

Send down the L.C.R. along with a copy of this judgment at once.