

**IN THE SUPREME COURT OF
BANGLADESH**

HIGH COURT DIVISION

**(CRIMINAL REVISIONAL
JURISDICTION)**

Present:

Mr. Justice Md. Shohrwardi

Criminal Revision No. 2345 of 2024

Md. Merazul Haque

.....Convict Petitioner

-versus-

The State

.....Opposite Party

Md. Mahful Ul Alam, Advocate

.... For the convict petitioner

Mr. Md. Anichur Rahman, DAG with

Mr. Sultan Mahmood Banna, AAG with

Mr. Mir Moniruzzaman, AAG

...For the State

Heard on 22.05.2025 and 02.07.2025

Judgment delivered on 08.07.2025.

On an application filed under section 439 read with section 435 of the Code of Criminal Procedure, 1898 Rule was issued calling upon the opposite party to show cause as to why the impugned judgment and order dated 18.10.2023 passed by Additional Sessions Judge, Panchagarh in Criminal Appeal No. 102 of 2017 affirming the judgment and order of conviction and

sentence dated 03.07.2017 passed by Chief Judicial Magistrate, Panchagarh in Boda Police Station Case No. 03 dated 09.02.2010 corresponding G.R. No. 15 of 2010(Boda) convicting the petitioner under section 473 of the Penal Code, 1860 and sentencing him thereunder to suffer rigorous imprisonment for 07(seven) years and fine of Tk. 5000, in default, to suffer imprisonment for 06(six) months should not be set aside and/or pass such other or further order or orders as to this court may seem fit and proper.

The prosecution's case, in short, is that the informant received secret information and on the basis of the GD No. 304 dated 08.02.2010, formed a raiding party to search the house of the accused Md. Merazul Haque situated at village Balabhir, under Boda Police Station and at 8.30 pm searched the north biti hut of the accused Md. Merazul Haque and recovered (1) 13 stamps made of Pakistan (2) 4 Indian stamps, (3) 42 stamps made of Bangladesh (4) 4 receipts regarding payment of land development tax (5) 7 forms of Khatian (6) 15 new Khatian forms(Bangladesh form No. 5463), (7) form regarding payment of tax (8) 5 duplicate carbon receipt book (9) duplicate carbon receipts (7 pages), (10) 2 official pad of Boda Union Parishad and (11) 8 court fee, 4 field book of Parcha, 42 papers of yellow colour, one Khatina book, East Pakistan form No. 5462, 74 seals of Assistant Land Officer of different Union. During interrogation, the accused could not give any satisfactory answer regarding the possession of the recovered materials.

P.W. 7 Kaisar Ali, Officer-in-Charge of Boda Thana took up investigation of the case. During investigation, he visited the place of occurrence, prepared the sketch map and index, and recorded the statement of witnesses under section 161 of the Code of Criminal Procedure, 1898. During the investigation, he found the truth of the allegation against the accused Md. Merazul Haque, Toyab Ali, Bashir Uddin, and Bahar Ali under sections 420/472/473/475 of the Penal Code, 1860 and submitted charge sheet on 31.08.2010.

During trial, charge was framed under sections 420/472/473 of the Penal Code, 1860 against the accused Md. Merazul Haque and 3 others, which was read over and explained to the accused persons present in court and they pleaded not guilty to the charge and claimed to be tried following the law. The prosecution examined 7 witnesses to prove the charge against the accused persons and the defence cross-examined the prosecution witnesses. After examination of the prosecution witnesses, the accused persons were examined under section 342 of the Code of Criminal Procedure, 1898 and they declined to adduce DW.

After concluding trial, the trial court by impugned judgment and order dated 03.07.2017 convicted the petitioner under section 473 of the Penal Code, 1860 and sentenced him thereunder to suffer rigorous imprisonment for 7 (seven) years and fine of Tk. 5000, in default, to suffer imprisonment for 06(six) months against which he filed the Criminal Appeal No. 102 of 2017 before the Sessions Judge, Panchagarh. The appeal was heard by the Additional Sessions Judge, Court No. 1, Panchagarh. After hearing the appeal,

the appellate court, by impugned judgment and order affirmed the judgment and order of conviction and sentence passed by the trial court against which the convict petitioner obtained the rule.

The learned Advocate Mr. Md. Mahfuj-Ul-Alam, appearing on behalf of the convict petitioner Md. Merazul Haque submits that P.W. 1 is the informant and none of the witnesses corroborated the evidence of P.W. 1 as to the recovery of the alleged stamps and seals and other goods from the possession of the convict petitioner. He further submits that P.W. 1 did not say specifically from which place of the north biti hut, the goods were recovered and the alleged stamps and the seals were not proved in the case. The prosecution failed to prove the charge against the accused beyond all reasonable doubt.

The learned Deputy Attorney General Mr. Md. Anichur Rahamn Khan appearing along with learned Assistant Attorney General Mr. Sultan Mahmood Banna on behalf of the state submits that the stamps, forged seals of the government office and others official forms of the government were recovered from the house of the convict petitioner and he could not give any satisfactory explanation regarding possession of the forged seals and the prosecution proved the charge against the accused beyond all reasonable doubt and both the courts below on correct assessment and evaluation of the evidence passed the impugned judgments and orders. He prayed for discharging the Rule.

I have considered the submission of the learned Advocate Mr. Md. Mahfuj Ul Alam who appeared on behalf of the convict

petitioner Md. Merajul Haque and the learned Deputy Attorney General Mr. Md. Anichur Rahman Khan who appeared along with the learned Assistant Attorney General Mr. Sultan Mahmood Banna on behalf of the state, perused the evidence, the impugned judgments and orders passed by the courts below and the records.

On perusal of the evidence, it appears that P.W. 1 S.I. Uzzal Shah is the informant. P.W. 2 Shafiul Islam, P.W. 3 Saidul Islam and P.W. 5 Shah Alam are the witnesses of the seizure list. P.W. 4 Birendra Nath is a constable of Boda Thana. P.W. 6 Babul Islam is a hearsay witness. P.W. 7 Inspector Kaisar Ali is the investigating officer.

On perusal of the judgment and order passed by the trial court, it reveals that the trial court convicted the petitioner under section 473 of the Penal Code, 1860 for illegal possession of 74 seals of Assistant Land Officers of different Union. P.W. 1 S.I. Uzzal Shah stated that on 08.02.2010 at 8.30 pm, he, along with the members of the raiding party, raided the house of the accused Md. Merazul Haque and in the presence of the witnesses, recovered different seals of the land offices from the north biti hut of the accused Md. Merazul Haque and prepared the seizure list and took the signatures of the witnesses. P.W. 4 is a police constable, but he did not corroborate the evidence of P.W. 1 regarding the recovery of the alleged seals of the land offices from the possession of the accused. P.W. 2 stated that the police arrested the accused Md. Merazul Haque but he is not aware of the occurrence. P.W. 3 also stated that police took him to the house of the accused Md. Merazul

Haque and he was detained. P.W.s 5 and 6 also did not corroborate the evidence of P.W. 1.

During trial, 74 seals of the Assistant Land Officers of different Union was not proved in the case. None of the prosecution witnesses, including P.W. 4 Constable Birendra Nath corroborated the evidence of P.W. 1 regarding the recovery of the alleged forged seals from the possession of the accused. The courts below convicted the petitioner even though the alleged seals were not proved in the case.

In view of the above evidence, facts and circumstances of the case, findings, observation and proposition, I am of the view that the prosecution failed to prove the charge against the accused Md. Merazul Haque beyond all reasonable doubt.

I find merit in the Rule.

In the result, the rule is made absolute.

The impugned judgments and orders of conviction and sentenced passed by the courts below against the convict petitioner Md. Merazul Haque is hereby set aside.

Send down the lower Court's record at once.

