

Devendra Kumar Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Jan-29-2013

Appellant : Devendra Kumar

Respondent : The State of Madhya Pradesh

Judgement :

HIGH COURT OF MADHYA PRADESH JABALPUR Criminal Revision
No.855/2009 Devendra Kumar Vs. State of Madhya Pradesh

Present : Hon'ble Shri Justice N.K. Gupta.

Name of counsel for the parties: Shri Ramesh Tamrakar, Advocate for the
applicant. Shri Prakash Gupta, Panel Lawyer for the respondent/State.

ORDER

(Passed on 29th day of January, 2013) The applicant has preferred this revision against the order dated 5.3.2009 passed by the learned Special Judge under Madhya Pradesh Nikshepko Ke Hito Ka Sanrakshan Adhiniyam Jabalpur, whereby the charges of the offences punishable under Sections 3(4) and 6(1) of the Madhya Pradesh Nikshepko Ke Hito Ka Sanrakshan Adhiniyam [in short 'the Act']. were framed.

2. The Prosecution's case in short is that an advertisement was given in the newspaper that if someone is ready to deposit a sum of `50,000/- then, he will get a periodical profit on the deposited amount and after some period, deposited amount will also be returned. That advertisement was given by Bhawna Purchasing Corporation, which was operated by the applicant. Smt. Vijaya Dayal 2 Criminal Revision No.855/2009 complainant of the case entered into in the contract with the applicant and deposited a sum of `50,000/- by a cheque, but according to the contract, she got nothing as periodical profit and therefore, the complainant had lodged an FIR against the applicant. After due investigation, a charge sheet was filed before the Special Court.

3. After considering the submissions made by the learned counsel for the parties, it appears that the arguments advanced by the learned counsel for the applicant cannot be accepted. He has submitted that the applicant had returned the cheque to the complainant and no transaction took place. If that cheque was returned to the complainant then, there was no need to execute a written agreement. Execution of written agreement indicates that the applicant encashed the sum. It is a matter of evidence that as to whether the applicant returned that cheque or not. At this stage, such type of evidence created in favour of the defence cannot be considered.

4. If over all position is assessed then, it would be clear that the applicant collected the money from the complainant and thereafter, he did not give any periodical profit and other advantages, which were to be given to the complainant and therefore, prima facie it appears that he had committed an offence punishable under Sections 3(4) and 6(1) of the Act. He used the company of Bhawna Purchasing Corporation, Jabalpur to collect the money and he could not show any registration of that company for that purpose under the 3 Criminal Revision No.855/2009 Act, whereas it was for the applicant to get his company registered before the competent authority as a financial establishment. Under such circumstances, there is no basis by which any interference is required in the impugned order.

5. On the basis of aforesaid discussion, the revision filed by the applicant cannot be accepted and hence, it is hereby dismissed.

6. A copy of this order be sent to the trial Court for information and compliance alongwith its record so that trial may proceed further. (N.(K. GUPTA) JUDGE 29 01.2013 pnkj

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