

**Aditya Yadav Vs. State and Another**

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**Court :** Mumbai Goa

**Decided On :** May-07-2013

**Judge :** The Honourable Mrs. Justice R.P. Sondurbaldota

**Appeal No. :** Criminal Revision Applications No.37 of 2012, 38 of 2012, 39 of 2012, 40 of 2012 & 41 of 2012

**Appellant :** Aditya Yadav

**Respondent :** State and Another

**Judgement :**

By this common order five criminal revision applications filed by the same petitioner are being disposed of. The petitioner challenges the orders passed by the Additional Sessions Judge, Mapusa that charge be framed against him for the offence punishable under Section 489-B Indian Penal Code in each of the Sessions Case i.e. Sessions Case No.38/2011, 40/2011, 35/2011, 37/2011 and 46/2011.

2. The particulars of the five sessions cases are as follows:(chart)

| Sr.no. | Criminal Revision Applications | Sessions Case | Complaint | FIR No. | No. of notes | Charge framed u/s 489-B IPC in respect of |
|--------|--------------------------------|---------------|-----------|---------|--------------|-------------------------------------------|
|--------|--------------------------------|---------------|-----------|---------|--------------|-------------------------------------------|

|   |         |         |                                                                                                                                     |          |    |                        |
|---|---------|---------|-------------------------------------------------------------------------------------------------------------------------------------|----------|----|------------------------|
| 1 | 37/2012 | 38/2011 | 3/6/2010. By Manager ICICI Bank for counterfeit notes found during period March May 2010 in ICICI Bank, Calangute Branch.           | 122/2010 | 7  | 5DA 678592 of Rs.500/- |
| 2 | 38/2012 | 40/2011 | 13/1/2011. By Manager ICICI Bank for counterfeit notes found during period October 2010 - 13.1.2011 in ICICI Bank, Calangute Branch | '11/2011 | 12 | 7AS 875664 of Rs.500/- |
| 3 | 39/2012 | 35/2011 | 30/6/2011. By Manager ICICI Bank for counterfeit notes found during period March 2011- 30.6.2011 in Calangute Branch                | 148/2011 | 17 | 6BB 428195 of Rs.500/- |

|   |         |         |                                                                                                                                                          |          |    |                                                                                                                                               |
|---|---------|---------|----------------------------------------------------------------------------------------------------------------------------------------------------------|----------|----|-----------------------------------------------------------------------------------------------------------------------------------------------|
| 4 | 40/2012 | 37/2011 | 14/12/2010.<br>By Manager<br>ICICI bank for<br>counterfeit<br>notes found<br>during period<br>October<br>2010-<br>14.12.2010 in<br>ICICI Bank,<br>Mapusa | 356/2010 | 14 | 5DA 678577 of<br>Rs.500/- 9AV<br>795808 of<br>Rs.500/- 9AV<br>795832 of<br>Rs.500/- 7AS<br>875677 of<br>Rs.500/- 7AS<br>875657 of<br>Rs.500/- |
| 5 | 41/2012 | 46/2011 | 22/10/2010.<br>By Manager<br>ICICI bank for<br>counterfeit<br>notes found<br>during period<br>June 2010-<br>September<br>2010                            | 199/2010 | 6  | 3AB 095261 of<br>Rs.500/- 3AB<br>095202 of<br>Rs.500/-                                                                                        |

3. The complainant - Bank had detected certain counterfeit notes during different periods mentioned in each complaint. But it was unable to identify either the tenderer of the notes or the counter at which the same had been received. The complaint registered at the instance of the Bank was therefore against unknown persons. After investigation the police filed charge sheet against the petitioner herein as accused no.1 and PSI Vaibhav Naik as accused no.2. When the sessions cases were taken up for arguments before charge the orders impugned in the revision applications came to be passed, discharging accused no.2 and directing framing of charge against applicant no.1. It was the case of the petitioner before the Sessions Court that there is nothing on record to connect him to the offences alleged and that he has been sought to be proceeded against only on probabilities and surmises.

4. Certain undisputed facts of the case are that all the first information reports by the Manager of the Bank are against unknown persons. The complaint does not mention specific date of deposit or name of the depositor. It does not specify the account details of the depositor. It is not the allegation that the petitioner had ever visited the Bank during the relevant time.

5. Ms. C. Collasoo, the learned Counsel for the petitioner submits that he has been sought to be implicated in these sessions cases solely on account of his involvement and conviction for identical offence in another sessions case i.e. Sessions Case no.35/2011. During the course of that investigation, the police had recovered 150 counterfeit Indian currency notes of Rs.1000/- denomination and 255 counterfeit Indian currency notes of Rs.500/- denomination at the instance of the petitioner. On disclosure by the petitioner that he had been given those counterfeit notes by PSI Vaibhav Naik, Mr. Vaibhav Naik was also made an accused in that case. Ms. Collasoo, submits that it is patent from the impugned order that the conclusion drawn by the learned Sessions Judge that a prima facie case has been made out against the petitioner is based on probabilities and surmises. She submits that the exercise conducted by the learned Judge of looking into the particulars of the counterfeit notes recovered in Sessions Case No.35/2011 and comparing the numbers of the counterfeit notes in each of the above cases is not permissible in law. She points out that the learned Judge has directed to frame charge against the petitioner not in respect of all the counterfeit notes mentioned in the complaints by the complainant. The learned Judge has selected only such counterfeit notes, the numbers of which matched with the series of notes under recovery in Sessions Case No.35/2011. She argues that there is no evidence to indicate that the petitioner had ever visited the Bank during the relevant time. The Closed Circuit TV camera installed in the Bank does not indicate as to which customer had deposited counterfeit currency. The cash from the brandies of ICICI Bank comes into ICICI Bank Currency Chest, Panaji for processing on the next date. It would therefore be difficult to find out the branch which had received the counterfeit notes. She points out that the recovery panchanama in Sessions Case No.35/2011 discloses that according to the petitioner he received the notes from Vaibhav Naik on 11th July, 2011. This date being much subsequent to the dates of detection of counterfeit notes in the above

cases any comparison of the numbers on the counterfeit notes with the notes recovered earlier would not be proper. Besides, the Sessions Court has discharged Vaibhav Naik holding that there is no sufficient material against him to frame the charge.

6. Perusal of the orders impugned in each revision application substantiates the arguments of Ms. Collasso. There is nothing on record even to remotely indicate that the counterfeit notes detected by the Bank during the different periods had been received by it either from the petitioner or anybody connected to him. Merely because the petitioner had been found to be in possession of the counterfeit notes of similar denomination of the same series and numbers closer to the numbers of the notes detected by the Bank, it would be difficult to accept that the notes have been used or circulated by the applicant herein. Thus the material on record does not connect the petitioner to the offences alleged in the sessions case. Further with discharge of accused no.2 who as per the earlier complaint had handed over the counterfeit notes to the petitioner there can be no trial of the petitioner of the offence alleged in the complaint. Hence, the revision applications are allowed in terms of prayer clause 'a'. The orders dated 14th June, 2012 in Sessions Case No.38/2011, 40/2011, 35/2011, 37/2011 and 46/2011 are set aside and the proceedings in Sessions Case No.38/2011, 40/2011, 35/2011, 37/2011 and 46/2011 are quashed.

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