

Sathish Puthran Vs. State of Karnataka

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Court : Karnataka

Decided On : Feb-26-2014

Judge : N. Ananda

Appeal No. : Criminal Appeal No. 525 of 2009

Appellant : Sathish Puthran

Respondent : State of Karnataka

Judgement :

(Prayer: This Appeal Is Filed Under Section 374(2) Cr.P.C., Praying To Set Aside The Judgment And Order Of Conviction Dated 26/27.05.2009, Passed By The li Additional District Sessions and Special Judge, D.K., Mangalore In Spl.Case NO.26/2007 - Convicting The Appellant/Accused For An Offence Punishable Under Section 420 Ipc and Etc.)

1. The appellant (accused) was tried for offences punishable under Sections 420 and 506 IPC and also for an offence punishable under Section 3 (1) (x) of SC/ST (Prevention of Atrocities) Act, 1989.

2. The learned Special Judge acquitted the accused of an offence punishable under Section 506 IPC and also for an offence punishable under Section 3 (1) (x) of SC/ST (Prevention of Atrocities) Act, 1989.

The learned Special Judge convicted the accused of an offence punishable under Section 420 IPC and sentenced him to undergo simple imprisonment for a period of six months and pay fine of Rs.5,000/- in default to undergo simple imprisonment for a period of one month. Therefore, he is before this court.

3. I have heard Sri.Vishwajith Shetty, learned counsel for accused and learned Government Advocate for the State.

4. In view of acquittal of accused for an offence punishable under Section 506 IPC and also for an offence punishable under Section 3 (1) (x) of SC/ST (Prevention of Atrocities) Act, 1989, there is no need for me to refer to the evidence adduced by prosecution in relation to these offences.

5. It is the case of prosecution that accused had taken certain extent of land on lease from PW.1-Dinesha for the purpose of extracting laterite stones and had agreed to pay lease amount of Rs.45,000/-. The accused promptly removed laterite stones but failed to pay the lease amount of Rs.45,000/-.

6. It is the case of prosecution that accused had pledged his Tiller with PW.1 and assured to take back the Tiller after payment of Rs.45,000/-. Later, the accused forcibly took the Tiller. In these circumstances, PW.1 has lodged the first information (Ex.D3) against the accused on 03.09.2007 narrating aforesaid facts and alleging that accused had abused PW.1 by taking out the name of his caste with an intention to insult him while taking away his power tiller.

The investigation officer for the reasons best-known to him instead of proceeding with the investigation of case, called the accused to police station and discussed with the parties and it was decided that accused shall pay a sum of Rs.30,000/- in full and final settlement of claims made by PW.1. The accused gave a cheque dated 10.09.2007 for a sum of Rs.30,000/- drawn on Syndicate Bank, Moodabidre Branch.

7. PW.1 has alleged that accused subsequently met PW. 1 and told him that he had issued the cheque not on the account held by him but on the account held by PW.10- Anantha Paja Indra. The accused told PW. 1 that he will not be in a

position to recover money from accused and also abused PW. 1 by taking out the name of his caste. Therefore, the first information of the instant case was lodged on 14.09.2007.

8. On perusal of evidence of PW's.1 to 5, we find that the accused has disputed that he had taken certain extent of land on lease from PW. 1 to extract laterite stones. PW. 1 has not produced documentary evidence to prove the transaction of lease between PW. 1 and the accused.

The talks of settlement pursuant to which accused gave cheque as per Ex.P3 to PW.1, were held in the police station. It is alleged that the accused has committed an offence punishable under Section 420 IPC by issuing the cheque in favour of PW. 1 on the account not held by him.

9. In order to constitute an offence punishable under Section 420 IPC, the prosecution has to prove that accused had dishonestly induced person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security. In the case on hand, the talks of settlement took place in Moodabidre police station in the presence of PW. 16-Umapathi, the then Sub-inspector of

Moodabidre Police Station. Therefore, there could not have been any inducement by the accused.

10. It is not the case of PW.1 that he had delivered, any property to the accused in the police station. On the other hand, it is the defence of the accused that he had issued the cheque under duress. The accused had also caused legal notice to PW.1 and the police officer stating the circumstances under which he was compelled to issue the cheque to PW. 1 and also instructed PW. 1 not to present the cheque. This legal notice was served on 10.09.2007. PW.1 knowing full well that the cheque issued by the accused was not drawn on the account held by him, presented the cheque for collection. The cheque was not honoured.

11. On careful consideration of evidence of PW. 1, I find that PW.1 had taken the help of police officer to recover money from the accused which according to PW. 1 was due to him in relation to lease of land to the accused for extraction of laterite stones. The disputed cheque was issued by the accused to PW. 1 in the police station under duress. There was neither inducement on the part of accused nor there was delivery of property to accused by PW. 1.

12. The prosecution has failed to prove the essential ingredients of an offence punishable under Section 420 IPC, The learned trial judge was not justified in convicting the accused. Therefore, the impugned judgment cannot be sustained.

13. In the result, I pass the following:

ORDER

The appeal is accepted The impugned judgment is set aside. The appellant is acquitted of an offence punishable under Section 420 IPC.

The bail bond executed by accused stands cancelled. If accused has deposited the fine amount in terms of the impugned judgment, the same shall be refunded to him.

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