

Khokhan vs.state

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Court : Delhi

Decided On : Jun-07-2017

Appellant : Khokhan

Respondent : State

Judgement :

§~1 * IN THE HIGH COURT OF DELHI AT NEW DELHI % Date of order: June 07, 2017 + % CRL.A. 425/2014 & CrI. M(B) 1011/2016 KHOKHAN STATE Appellant Through: Mr. Amar Nath, Amicus Curiae versus Through: Ms.Meenakshi Chauhan, Addl. Respondent Public Prosecutor for State with SI Sachin Kumar, Police Station.Amar Colony CORAM: HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

(ORAL) The challenge in this appeal is to the impugned judgment of 24th January, 2014 vide which appellant has been held guilty for the offence punishable under Section 3

of IPC and under Section 397 of IPC. Although appellant was charged for the offence under Section 411 of IPC but trial court has chosen not to hold him guilty for the offence under Section 411 of IPC as appellant already stands convicted for the serious Page 1 of 4 CrI.A.425/2014 offence under Sections 3

of IPC. Vide impugned order on sentence of 11th February, 2014 appellant has been sentenced to rigorous imprisonment for seven years with fine of `10,000/- for the offence punishable under Section 3

IPC with default clause. The facts as noted in the impugned judgment are as

under:-

"I am residing at address mentioned above i.e. C- 42, Dayanand Colony, 1st Floor along with my parents. I am working with GE company situated at Sector 43, Gurgaon. Today i.e. 07.12.12, I was returning to my house from my office. At about 8.00 pm, my colleague dropped me near Flyover Modi Mill. I was coming towards my house on foot, having one bag containing laptop make DELL on my shoulder. At about 8.30 pm, when I reached near bus stand on Captain Gaur Marg, C-Block, East of Kailash, two boys came from my behind. One of them was Khokan (accused), who was having a chhura with him. He put that chhura on my neck and threatened to kill, if I raise an alarm. His associate snatched my laptop, my jacket and cash. Accused Khokan snatched my mobile phone. In between, I saw a police van coming towards us. I got it stopped by raising cry. Both of accused tried to flee away but I as well as those police persons succeeded in overpowering one of them i.e. accused Khokan. Other accused fled away along with my valuables described above. I can identify him, if shown to me."

While relying upon the evidence of complainant-Abhinav Gupta (PW-1), ASI Ram Kishan (PW-4) and ASI Subhash Chand (PW-9), Page 2 of 4 Crl.A.425/2014 appellant has been held guilty while negating appellants stand of false implication. Appellant had not chosen to lead any evidence in his defence. In pursuance to the production warrant issued against appellant, he had appeared before the Court on the last date of hearing and his Nominal Roll was taken on record and this case was adjourned for today to obtain the trial court record. With the assistance of learned Amicus Curiae counsel and learned Additional Public Prosecutor for the respondent-State, the impugned judgment and order on sentence as well as the trial court record is perused. The precise submission of learned Amicus Curiae counsel for appellant is that prosecution version is improbable as no prudent person would believe that such a serious incident would take place when PCR van was stationed at a distance of 20 meters from the spot where the incident took place. It is submitted that appellant has been falsely implicated in this case and since the prosecution version is improbable, so appellant deserves to be acquitted. Learned Additional Public Prosecutor for respondent-State submits that there is no infirmity in the prosecution case and this appeal deserves to be dismissed. Upon

hearing and on perusal of impugned judgment, order on sentence and the record of this case, I find that appellant was Page 3 of 4 Crl.A.425/2014 apprehended at the spot soon after this incident and the weapon of offence i.e. the knife was recovered from him. The plea now put forth on behalf of appellant has not been put to the prosecution witnesses and so benefit of doubt cannot be extended to appellant. In the considered opinion of this Court, the prosecution version as unfolded by the complainant inspires confidence and I have no reason to take a different view than one taken by the trial court. Finding no substance in this appeal, it is dismissed. The pending application for suspension of sentence is accordingly dismissed. Appellant be apprised of the fate of this appeal through concerned Jail Superintendent. (SUNIL GAUR) JUDGE JUNE07 2017 skb Page 4 of 4 Crl.A.425/2014

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