

State vs.jagjit Singh

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Court : Delhi

Decided On : Jul-24-2019

Appellant : State

Respondent : Jagjit Singh

Judgement :

\$~21 * % + IN THE HIGH COURT OF DELHI AT NEW DELHI Date of decision:
July 24, 2019 CRL.L.P.No.437/2018 STATE

... Petitioner

Through: Mr.Kewal Singh Ahuja, APP for the State. versus JAGJIT SINGH
Respondent Through: Mr.Sunil Kumar and Mr.Kunal Sinha, Advocates with the
Respondent in person. CORAM: HON'BLE MR. JUSTICE A.K.CHAWLA A.K.
CHAWLA, J.

(ORAL) Crl.M.A.No.12479/2019 Allowed subject to just exceptions. The application stands disposed of. Crl.L.P.No.437/2018 By the instant petition, the petitioner - State seeks leave to appeal under Section 378 (3) Cr.P.C. against the judgment dated CRL.L.P.No.437/2018 Page 1 of 5 10.04.2018 passed by the learned ASJ, whereby, the learned ASJ has closed the prosecution evidence noting that the complainant - a material witness, was aged and compelling his presence would result in harassment to an old man. Apparently, it resulted into acquittal of the respondent. Taking note of the totality of the facts and circumstances, the petition for leave to appeal is granted. The application stands

disposed of. CrI.A.No._____/2019 (to be numbered) Heard. The short judgment resulting into a judgment of acquittal can be taken note of as follows: 1. Prosecution case in brief is that on 30.7.2014 at about 9:45 pm complainant Sant Ram Sareen reached plat form no.14 at Old Delhi Railway Station waiting for Una Himachal Express. Accused was present there started talking to him and became friendly. When the train reached on the plat form, complainant and accused went inside the general coach. After sometime accused brought a cold drink namely Maza and gave it to complainant, who became unconscious after drinking it. Later on, he found himself lying on Kurali Railway Station. He alleged that a voter card, mobile phone, a departmental card of Air force and a sum of CRL.L.P.No.437/2018 Page 2 of 5 Rs. 900/- had also been stolen by the accused. The FIR was registered. CCTV footage were examined and the complainant identified the accused in CCTV footage. Accused was arrested on a secret information. Accordingly, a charge was 2. framed under Section 238/394/411 IPC to which accused pleaded not guilty and claimed trial.

3. Prosecution examined PW1 Inspector RPF Gulshan Satija, who joined the ASI Ramesh Chand, the Investigating Officer, in investigation. He testified that on 8.8.2013, at the instance of secret informer, accused was arrested. On his search, one strip containing seven tablets of ATIVA12g were found and few articles were recovered from him. PW2 Ct. Balvinder Singh joined investigation. He testified that three days police remand of accused was granted and from him one dependent identity card having the photograph of complainant was recovered. PW3 HC Narender had recorded FIR Ex. Pw3/A.

4. Despite numerous efforts, the complainant did not appear due to very old age. The complainant is totally dependent upon an Air Force Officer and his address keeps on changing with the transfer of his son. Since, the witness was not coming to the court, of course due to his old age and he being residing out station with his son, it was felt by this court that compelling his appearance would result in harassment to an old man. CRL.L.P.No.437/2018 Page 3 of 5 Therefore, prosecution evidence was closed by this court. The evidence of the aforesaid witnesses is not sufficient to prove the prosecution case. Therefore, in absence of the evidence of complainant, who is the sole witness who could have testified

about the incident, the evidence of PW1, PW2 and PW3 is not enough to hold the accused guilty. Accordingly, accused is acquitted. Bail bonds and surety bonds are discharged. File be consigned to record room. A perusal of the foregoing judgment of the Trial Court would show that the vital witness to the prosecution case, whose deposition was most material for the prosecution case, came to be shut for the reason that he was old and dependent upon his son - an Air Force Officer, whose address would change on transfer and therefore, despite various efforts, the prosecution could not examine him. Closing prosecution evidence, on the given premise, cannot be approved of. More so, when, neither the prosecution expressed its inability to produce him for his examination nor there was any material to show that the examination of such material witness was not at all including through video conferencing. In the absence thereof, the approach adopted by the trial court in closing PE cannot be appreciated. feasible by any means For the foregoing reasons, the impugned judgment is set aside and the matter is remanded back to the Trial Court to proceed further for recording of the prosecution evidence and record its findings CRL.L.P.No.437/2018 Page 4 of 5 afresh, giving due opportunity to the prosecution to lead its remaining evidence. The appeal stands disposed of accordingly. The parties to appear before the Trial Court on 20.08.2019. JULY24 2019 dm A.K. CHAWLA, J.

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