

In Re: Satyanarayana

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Court : Andhra Pradesh

Decided On : Aug-25-1960

Reported in : AIR1961AP213

Judge : Anantanarayana Ayyar, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 489C

Appeal No. : Criminal Revn. Case No. 228 of 1959 and Criminal Revn. Petn. No. 200 of 1959

Appellant : In Re: Satyanarayana

Advocate for Pet/Ap. : Adavi Rama Rao, Adv.;C. Padmanabha Reddy, Adv. for
;Public Prosecutor

Judgement :

ORDER

Anantanarayana Ayyar, J.

1. This revision has been filed by Guggilla Satyanarayana, the sole accused in S. C. No. 28 of 1958. He was charged before the Assistant Sessions Judge, Warangal with offences under Sections 489-B and 489-C, I. P. C. The learned Assistant Sessions Judge found the accused guilty of both the offences and sentenced him to three years' rigorous imprisonment on each count. The accused

filed C, A. No. 233 of 1958 before the Sessions Judge, Warangal. The latter set aside the conviction and sentence under Section 489-B. I. P. C. but confirmed the conviction and sentence under Section 489-C. I. P. C. The petitioner feels-aggrieved with the conviction and sentence which have thereby been confirmed and has, therefore, preferred this revision petition.

2. The prosecution case, supported by six witnesses, was to the following effect. Ramakka (P. W. 4) complained to P. Ws. 2 and 3 who were workers in a mill at Warangal, that the accused owed her a gold maim and had not returned it, in spite 'of demand. P. Ws. 2 and 3 went to Ladal village on 14-1-1958 and questioned the accused about the matter.

The accused brought a mediator, one B. Istari (not examined as witness), represented that the jewel was not available with him and offered to pay its value, namely Rs. 240/-. Accordingly, the accused also agreed to pay the interest of Rs. 60/-demanded by them. The accused then gave thirty ten-rupee currency notes. P. Ws. 2 and 3 examined the currency notes, suspected that those notes were not genuine and returned them to the accused. The accused promised to return the jewel or money in a day or two. P. Ws. 2 and 3 informed P. W. 4 and then went away.

3. Next day at about 4 p.m. P. W. 6, the C. I. of Police, went to the village on information that the accused was in possession of counterfeit notes of ten-rupee denomination. He sent a memo to the Station House Officer, Atmakur to register a case and he took up investigation. He reached Ladal village with the S. I. of Police at 5-30 p.m., sent for the accused and questioned him in the presence of two mediators, P. W. 5 and Istari. The accused then gave a statement which the C. I. of Police reduced to writing as Ex. P-7. .

In pursuance of that statement, the accused took are C. I. of Police (P. W. 6), P. W. 5 and others to his house, left them on the front pial, went inside the house and brought out a small steel case and opened it with a key, which he took out from his pocket. The accused then took out from inside the box, thirty ten-rupee notes (M. O. I) and produced them before P. W. 6, The C. I. of Police seized them by means of a Panchayatnama, Ex. P-7.

4. The currency expert, P. W. 1 found the counterfeit notes to be false. Eight of the currency notes bore the identical No. A/23-185307. The other twenty-two notes bore the identical No. A/23-853071, They did not bear water-mark of lettering. The State Emblem was embossed but not borne as water mark.

5. When questioned in the committing Court and the trial Court, the accused denied having made statement to the C. I. of police, and produced M. O. I and alleged that the version of P. Ws. 2, 3 and 4 was totally false and that he (accused) did not owe any jewel or money to P. W. 4 at all. He examined two defence witnesses, D. W. 1 deposed that the accused was taken away by the C. I. of police, when the accused was at the house of Mali Patel. D. W. 2 deposed that P. W. 4's husband owed the accused same money and that he (accused) demanded it from P. W. 4.

6. The learned Assistant Sessions Judge believed that the prosecution had proved both offences beyond reasonable doubt and that the defence evidence did not rebut the prosecution evidence. He accordingly convicted and sentenced the accused. On appeal, the learned Sessions Judge held regarding the conviction under Section 489-B I. P. C. as follows;

'The evidence of P. Ws. 2 and 3 that these notes are offered to them and that they were refused on the basis of a suspicion, that they were counterfeited cannot be readily accepted or acted upon..... I am not free from reasonable doubt that the appellant used as genuine, currency notes that were counterfeited, that too with the knowledge that they were counterfeited or having reason to believe the same to have been counterfeit.'

As regards the charge under Section 489-C, I. P. C. the learned Sessions Judge held that the only portion in Ex. P-7(a) which was admissible in evidence was 'the information he (appellant) stated that he has got 30 currency notes of ten rupee denomination in his house' and beyond that the remaining portion 'which are counterfeited' was inadmissible could not be relied upon as a confession of the appellant, admitting his guilt of 'possession' of counterfeit notes. But, all the same, he held that the evidence on record was sufficient to prove and did prove that the accused knew or had reason to believe that M. O. I was counterfeited notes and

that the accused had kept them with the intention of using them.

7. The only contention which has been pressed before me by the learned counsel for the appellant is that the prosecution evidence has not proved that the accused had knowledge or reason to believe that the notes were counterfeit notes and also the fact that the accused intended to use the same as genuine or that it might be used as genuine,

8. The learned Advocate for the accused relies on the decision in *Emperor v. Habu*, 25 Cri. L. J. 935 (Sind), wherein it was held by the Court of Judicial Commissioner, Sind that where an accused person was charged with using as genuine, a forged note, the burden was on the prosecution to prove that, at the time when the accused was passing the note, he knew that it was a forged one and that mere possession of it by him did not place the burden on him to account for its possession and to prove his innocent possession thereof.

9. In *Bur Singh v. Emperor*, AIR 1931 Lah 24 it was held that the onus lay on the prosecution to prove circumstances which led clearly, indubitably and irresistibly to the inference that the accused had the intention to foist the currency notes on the public,

10. In *Abdul Ratunan v. Emperor*, 12 Cri. L. J. 377 at p. 381 (Mad) Sundara Aiyar, J. held as follows:

'I may at once state that no evidence whatever has been adduced in the case, either that the material objects in evidence are actually of any use for producing a counterfeit note or that the accused had them in his possession for the purpose of counterfeiting notes. The prosecution chose to leave it to the Court to come to a judgment on the former question by means of the knowledge possessed by the presiding Judge, and, I take it, expected the Court also to presume the purpose and intention of the accused from the nature of the instruments in his possession. I can find no justification for pursuing such a course in this case.....'

In that case, the offence concerned was possession of instruments and materials for counterfeiting five-rupee currency notes, punishable under Section 489-D I. P.

C. It was found, as a fact, that the material objects of which the accused was found in possession and the other circumstances proved, were not sufficient to show that the accused had the objects concerned for the purpose of counterfeiting.

11. In *In re, American*, AIR 1951 Mys 34 it was held to the following effect:

'If the accused charged under Section 489-C, Penal Code, when confronted with the large body of evidence to the effect that he took the police and showed them the place hidden from the public view where the counterfeit notes were secreted, kept silent or denied the whole affair, it would not be unnatural to presume that he had either secreted them there himself or knew who had done so. It would also not be unreasonable to presume that if someone also to his knowledge had so secreted them it is not at all likely that the accused would be shielding him but would disclose the name of the latter.....'

In *Public Prosecutor v. Kondal Rao*, AIR 1939 Mad 96 the accused was found to be in possession of thirty-eight counterfeit ten-rupee currency notes knowing the same to be counterfeit. Thirty of them were tied up in a piece of cloth worn by him on his person and the remaining eight were produced by him from a box in his house soon afterwards on being questioned by the Inspector as to whether he had any similar notes in his possession.

The accused plea in the trial, that his possession of the counterfeit notes was for the purpose of foisting them on any one else, was found to be untrue. In those circumstances, the Madras High Court held that the only reasonable inference to be drawn was that the accused was in possession of those notes with the intention of using them as, genuine or that they might be used as genuine.

12. It is clear from the above decisions that the ingredients under Section 489-C I. P, C. namely that the accused knew or had reason to believe the currency notes to be counterfeit and his intention to use the same as genuine or that it might be used as genuine, should be proved by the prosecution but that such proof need not be necessary by direct evidence, such as the evidence of P. Ws. 2 and 3 in the present case.

13. The learned Advocate for the accused contends that there is no evidence that the accused had knowledge that the notes were counterfeit. The learned Public Prosecutor points out that in the statement of the accused, which was marked by the trial Court as Ex. P-7, he (accused) has said that the notes which he had kept in his house were 'counterfeit notes.' The learned Sessions Judge has rejected that portion in Ex. P-7 as inadmissible. Thereby, the learned Sessions Judge acted rightly and in conformity with the decision of the Privy Council in *Kotayya v. Emperor*, AIR 1947 PC 67. In that decision, it was also observed:

'Where in a case evidence has been admitted which ought not to have been admitted, it is the duty of the Court to apply its mind to the question whether, after discarding the evidence improperly Admitted, there is left sufficient to justify the conviction,'

14. But there are various features in the evidence about these currency notes which show that the accused must have known or at least must have had reason to believe that the notes were counterfeit. As regards the intention which is contemplated and required for an offence under Section 489-C, I. P. C. the following facts which have been proved by the prosecution are important.

15. The accused was found to have thirty counterfeit currency notes, all of the same type. This was a circumstance which was considered to be important by the Madras High Court in AIR 1939 Mad 96. The accused had good reason to know and believe that the notes are counterfeit notes. He kept them safely locked in his house with, the key in his possession. It is not as if he left them in such a way as to show that he treated it as useless and not to be used.

When confronted with the large body of evidence about his possession and the other facts referred to above, he denied having made statement and produced the notes. He did not come forward with any explanation that he had come into possession innocently or that he did not have any intention of using the notes or that he was keeping the notes under the lock and key so as to see that they were not used by anyone else as genuine.

I see no reason to differ from the finding of both the Courts below on the basis of the proved facts and circumstances that the accused had the intention of using the counterfeit currency notes as genuine or that it might be used as genuine. I therefore, confirm the conviction under Section 489-C. I reduce the sentence to R. I. for two years as I consider it sufficient to meet the ends of justice.

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