

State of Madhya Pradesh Vs. Govind Singh

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Court : Madhya Pradesh

Decided On : Mar-19-2007

Reported in : 2007CriLJ3845

Judge : S.S. Dwivedi, J.

Appellant : State of Madhya Pradesh

Respondent : Govind Singh

Disposition : Appeal dismissed

Judgement :

S.S. Dwivedi, J.

1. The appellant/State has preferred this appeal under Section 378(3) of the Cr. P.C. feeling aggrieved by the impugned judgment of acquittal dated 16-11-2005 passed by JMFC, Mahidpur, Ujjain in Criminal Case No. 101/2005, whereby acquitted the respondent accused from the charge, under Sections 467, 471, 420 and 468 of the IPC.

2. Brief facts of the case are that the respondent/accused at the relevant time was working as Secretary of the village panchayat Kachariya. It is alleged that he had withdrawn an amount of Rs. 20,000/-from the State Bank of Indore branch Mahidpur from the panchayat account No. 01 /1000-50183, for the construction of

the boundary wall of the panchayat building of the village concerned. It is alleged that on investigation, it is found that the cheque has been produced by the respondent/accused contained the forged signature of the Sarpanch Abdul Aziz, on the basis of this, police Mahidpur had registered a criminal case under Sections 420 and 468, 467 and 471 of the IPC against the respondent/Secretary of the panchayat concerned and after investigation filed the charge-sheet before the JMFC, Mahidpur. The learned trial Court after due appreciation of the entire evidence on record, by impugned judgment dated 16-11-2005, acquitted the respondent/accused from the aforesaid charges on the ground that first of all it is not proved that the respondent accused has committed any criminal breach of trust and used the withdrawal amount of Rs. 20,000/- for His own benefit with ulterior motive. Feeling aggrieved by the aforesaid judgment of acquittal, the State has preferred this appeal after obtaining leave to appeal under Section 378(3) of the Cr. P.C.

3. Having heard the learned Counsel for the appellant as well as the counsel for the respondent and perused the record.

4. It is submitted by the learned Counsel for the appellant/State that prosecution has proved the fact that the disputed cheque which had been produced by the accused, for the withdrawal of amount of Rs. 20,000/- from the bank concerned contained forged signature of the village Sarpanch Abdul Aziz. This fact has been proved by the hand writing expert's evidence and the trial Court has wrongly acquitted the accused from the aforesaid charges, therefore, prayed for setting aside of the impugned judgment of acquittal.

5. In reply, the learned Counsel for the respondent submits that the trial Court, on the basis of the evidence, came to the conclusion that whatever amount of Rs. 20,000/- had been withdrawn was for the purpose of construction of the boundary wall of the panchayat building of the village concerned and it is not proved by the prosecution that the amount, if any, has been withdrawn by the accused is misused and he had committed any criminal breach of trust. Similarly, signature of Abdul Aziz, which was taken by the bank concerned, has also not been examined properly by the hand writing expert on which basis the bank has accepted the

cheque and the accused has withdrawn the aforesaid amount of Rs. 20,000/- . Thus, the finding of acquittal recorded by the trial Court is based on proper appreciation of the evidence on record and no perversity is there on which basis the impugned judgment of acquittal can be set aside.

6. On perusal of the totality of the evidence on record, it is apparent that the amount of Rs. 20,000/- has been spent by the accused for the construction of boundary wall of the village Panchayat and necessary documents have been filed on which basis the learned trial Court came to the conclusion that whatever amount had been withdrawn by the accused had been spent for the construction of the boundary wall concerned. Similarly, the signature of the cheque has been identified by the concerned bank officer who accepted the cheque and permitted withdrawal of the amount from the bank and this specimen signature of the Abdul Aziz has not been compared by the examiner of the questioned document, therefore, if specimen signature of the Sarpanch Abdul Aziz is not matched with the disputed signature on the cheque no definite finding can be given that this signature had been forged by the accused/respondent.

7. In view of the aforesaid evidence, the finding of acquittal recorded by the trial Court, does not appear to be illegal or perverse which can be interfered with in the appeal under Section 378(3) of the Cr. P.C.

8. Resultantly, the appeal being devoid of any merits, is dismissed accordingly.