

Ved Rattan Arya Vs. State

Ved Rattan Arya Vs. State

SooperKanoon Citation : sooperkanoon.com/685950

Court : Delhi

Decided On : Nov-15-1973

Reported in : 1974RLR50

Judge : P.S. Safeer, J.

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

Appeal No. : Criminal Appeal No. 133 of 1972

Appellant : Ved Rattan Arya

Respondent : State

Advocate for Pet/Ap. : G.R. Chopra and; R.L. Mehta, Advs

Judgement :

P.S. Safeer, J.

(1) The appeal is directed against the conviction U/S 489-C of the Indian Penal Code . on 5.8.72 by an Addl Sessions' Judge in respect whereof the appellant was sentenced to one year's rigorous imprisonment. It was directed that the recovered dollar notes, declaration forms and the seals be destroyed and genuine dollar requisitioned from the State Bank of India was directed to be returned after the expiry of period of appeal.

(2) The prosecution case was that on the 1st of May, 1970 at about 3.30 p.m. the appellant was found sitting in the office of the Highway Travels, Connaught place, New Delhi. Shri Kewal Krishan' Inspector, Anticorruption Branch, had received information on account of which he had organized a raiding party. It was he who along with members of raiding party apprehended the appellant on whose search he found a white envelop in the left side back pant pocket which contained 10 notes of U.S.A. dollars of denomination of Rs. 100 each. As the appellant was wearing the pant from the pocket whereof the recovery was made, the suspected crime was investigated. In the course of the investigation, it is alleged the appellant led the police party to the house of Darshan Singh where three American dollars of the denomination of 100.00 each were recovered from one Kuldeep Chand. The prosecution adduced evidence that in the months of August, 1970 a passenger named Bakshish Singh who arrived at the Palam air port was carrying a peice of paper on which the name of the appellant was written.

(3) The appellant was tried on the following charge :

'THATyou on 1.5.70 was found in possession of 10 Usa forged notes of 100 dollar denomination each knowing or having reason to believe-the same to be forged or counterfeit and intending the same to be used as genuine or that they may be used as genuine and thereby you committed an offence punishable under section 489-C of the Indian Penal Code and within the cognizance of the court of Sessions at Delhi and I hereby direct you to stand your trial for the aforesaid charge in the said Court.'

The prosecution examined 15 witnesses in support of the case whose evidence has been discussed in detail by the learned Additional Sessions Judge.

(4) Public Witness 8 Kewal Krishan Inspector, Anti- corruption Branch had conducted the raid. He gave the version noticed above that 10 Usa dollars of the denomination of 100.00 each had been recovered from a white envelope which the appellant had in a left side back pant pocket. The others who witnessed the raid supported the aforesaid witness. The evidence then adduced consists of the recoveries made from the residence of Darshan Singh where Kuldeep Chand was with three American dollars of the denomination of 100.00 each and the

prosecution has also produced witnesses who have deposed that a traveller Bakshish Singh who alighted at the Palam Airport sometimes in August 1970, had with him a slip of paper on which the appellant's name was written.

(5) It was emphasised before the Court below that it were the statements made by the appellant which led to the recovery from Kuldip Chand of the three American dollars as well as of the slip which Bakshish Singh had carried bearing the name of the appellant.

(6) After discussing the evidence the Court below had of necessity to find whether the prosecution had succeeded in establishing a case within section 489-C of the Indian Penal Code. The provision, is:- (- -) In order to bring home the guilt to a person accused of an offence under section 489-C of the Indian Penal Code the prosecution has to establish that he had in his possession any forged or counterfeit currency note or bank-notes and that he had knowledge or reasons for him to believe that the currency-notes or the bank-note which he possessed, was forged or counterfeit and further that, he was having such forged or counterfeit currency note or bank-note with the clear intention of using the same as genuine or that it may be used as genuine. Possession of any forged or counterfeit currency-note or bank-note without the precise ingredients of section 489-C of the Indian Penal Code being established is not punishable within that provision. The word 'and' occurring in section, 489-C between the words 'counterfeit' and 'Intended' is conjunctive. The effect is that a person would not become punishable even when the requirements in the opening part of the provision are established unless it is proved that he intended to use the forged or counterfeit currency-note or bank-note as genuine or he had the intention otherwise that it may be used if not by himself then by some one else as genuine.

(7) In this case judgment in terms whereof the appellant had suffered conviction is based upon a presumption which has been illegally raised. The passage in the impugned judgment containing the presumption, is :-

'In the present case it would be seen that the accused as mentioned by one of these PWs had been employed in the United Arab Air Lines sometimes earlier and in the present case also. He was found sitting in the office of the Highway Travels

in Connaught Place and where evidently passengers for going to other countries are apparently visiting and the presumption can be raised that by sitting at such a place which would be frequented by passengers in connection . with their foreign flights with counterfeit American dollars the intention would be to pass on these foreign currency to any of the country to which these dollars pertain.'

(8) Intention to use as genuine any forged or counterfeit currency note as contemplated by section 489-C or that such a forged or counterfeit currency note or bank-note may be used by anyone else has to be proved beyond reasonable doubt. Where intention by itself is the ingredient of an offence it has to be established so as to exclude every other reasonable probability of the innocence of the accused.

(9) The evidence adduced at the trial, proved at the best that the accused was found in possession of ten Usa dollars of the denomination of 100.00 each. It remains unproved that he was possessing them at a time when he had the knowledge or the reason to believe that the dollars were forged or counterfeit. There is no incriminating evidence on which reliance may be placed to conclude that he had the intention to use the alleged forged 10 Usa dollars or in the alternative the intention that any body else may use the same. The proof of the very first requirement that the appellant knew that the dollars in the white envelope were forged or counterfeit or that he had the reason to believe them to be such, is missing. Mere recovery of forged dollars does not prove that the person possessing them knew that they were forged. A person may well believe that what he was possessing is neither forged nor counterfeit but is genuine.

(10) I may observe that the demands in section 489-C of the Indian Penal Code as it stands would be difficult for the prosecution to satisfy except in exceptional cases. The provision deserves to be looked into afresh so that the offences in respect of forged and counterfeit currency may be easily and adequately punishable.

(11) In this case the evidence adduced at the trial did not establish all the ingredients which could have propounded an offence within section 489-C of the Indian Penal Code. The offence not having been proved the appellant is hereby

acquitted.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com