

Ashok Kumar and anr. Vs. State (Delhi Administration)

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Court : Delhi

Decided On : May-05-1993

Reported in : 1993CriLJ3629; 1993(3)Crimes510; 50(1993)DLT631

Judge : Sat Pal, J.

Acts : [Evidence Act, 1872](#) - Sections 25

Appeal No. : Criminal Revision Petition No. 146 of 1992

Appellant : Ashok Kumar and anr.

Respondent : State (Delhi Administration)

Advocate for Pet/Ap. : R.K. Naseem,; Neelam Grover and; R.K. Bahri, Advs

Judgement :

Sat Pal, J.

(1) The present revision petition has been filed against the order dated 18/09/1992 passed by the learned Additional Sessions Judge, Delhi in Sessions Case No. 24/1991. By the aforesaid order the learned Additional Sessions Judge held that, prima fade, a case against all the accused including the petitioners is made oat for charging them under Sections 302/102-B of the Indian Penal Code. The aforesaid order has been challenged by two of the accused, namely, Ashok Kumar and Kuldip Kumar.

(2) Briefly stated the facts of the case are that deceased Raj Kumar and one Ravi were in the employment of petitioner Ashok Kumar, who was running a chit fund company. The petitioner Ashok Kumar lodged a report with the police against the aforesaid two persons on 8/03/1990 in respect of the alleged mis-appropriation of Rs. 60,000.00. After the aforesaid amount was returned to the petitioner Ashok Kumar, he gave a statement to the police on 22/03/1990 that he did not want to press the case and accordingly the case was filed.

(3) It is alleged that petitioner Kuldip Kumar visited the house of the deceased on 15/06/1990 and introduced the co-accused Anoop Singh @ Bittoo and told the deceased that said Bittoo wanted to get his vehicle financed and he should help him for the said purpose. It is further alleged that co-accused Bittoo had been visiting the house of the deceased thereafter, and on 28/06/1990 when the deceased was getting out of barbar's shop he was stabbed by three persons including Bittoo.

(4) Mr. Naseem, learned Counsel appearing for the petitioners, submitted that the charge has been framed against the petitioners on the basis of the statement of Smt. Ramwati and the disclosure statements of the petitioners. He, however, submitted that no recovery has been made as a result of the alleged disclosure statements of the petitioners and as such these disclosure statements cannot be relied upon. He further submitted that no role has been assigned to petitioner Ashok Kumar even in the statement of the wife of the deceased. He further submitted that the role assigned to petitioner Kuldip Kumar was only to the extent that he had introduced Bittoo on 15/06/1990 and that too for the purpose of financing a vehicle through the deceased. He, therefore, contended that no charge could be framed against the petitioners.

(5) Mr. Bahri, learned Counsel appearing on behalf of the State, fairly conceded that in the present case disclosure statements of the petitioners could not be relied upon as no recovery has been made pursuant to the said disclosure statements under Section 25 read with Section 27 of the Evidence Act. He also could not point out any role assigned to the petitioner Ashok Kumar in terms of the statement of the wife of the deceased. He, however, submitted that petitioner Kuldip Kumar had

brought the co-accused Bittoo to the residence of the deceased on 15/16-6-1990 and on the next day also and as such, prima fade, a case is made out against petitioner Kuldip Kumar.

(6) I have given my thoughtful consideration to the submissions made by the learned Counsel for the parties and I have also perused the statement of Smt. Ramwati, wife of the deceased. From the said statement I find that no role has been assigned to the petitioner Ashok Kumar. As regards the petitioner Kuldip Kumar, from the said statement, it is clear that he had'brought co-accused Bittoo thrice to the residence of the deceased Raj Kumara few days before the date of occurrence. In her statement Smt. Ramwati has also alleged that on 27-6-1990 when deceased had gone to the house of Kuldip Kumar and told Kuldip Kumar as to why he was sending Bittoo and other persons to his house again and again, Kuldip Kumar was foundperplexed.

(7) In view of the above discussion, the revision petition in respect of petitioner Ashok Kumar is allowed and the impugned order for framing charge against him under Section 302/120B Indian Penal Code is set aside. As regards petitioner Kuldip Kumar, the revision petition is dismissed.

(8) However, it is made clear that the observations made here in above will have no bearing on the merit of the case. The lower Court records be sent back forthwith.