

Lekh Ram Vs. State

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Court : Delhi

Decided On : Jan-19-2000

Reported in : 2000IIAD(Delhi)774; 83(2000)DLT684; 2000(56)DRJ80

Judge : R.S. Sodhi, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 411

Appeal No. : Crl. R. 22/83

Appellant : Lekh Ram

Respondent : State

Advocate for Def. : Mr. Naveen Thakur, amices Curiae

Advocate for Pet/Ap. : Mr. Anil Soni, Adv

Judgement :

ORDER

C.R. No. 22/1983

1. This revision petition is directed against the judgment and order of the Additional Sessions Judge, Delhi, dated 13.1.1983 in Criminal Appeal No. 9 of 1982 whereby the learned Additional Sessions Judge upheld the order of the Metropolitan Magistrate, dated 17.7.1982 convicting the petitioner under Section 411 IPC to undergo R.I. for 9 months.

2. The brief facts of the case are, that the police of Police Station Tilak Marg submitted a challan against the petitioner for an offence punishable under Sections 414/380 IPC with the allegations that one accused Johnson had disposed of a gas cylinder between 11.10.1980 and 14.10.1980 to Dinesh Kumar which originally belonged to Ms. Vina Pasricha. After trial it was held that the petitioner was to be convicted under Section 411 of IPC and this charge was amended later on.

3. After going through the record, and considering the submission of the learned amices Curiae, Mr. Thakur, I am of the opinion that the offence committed, as charged against the petitioner, cannot be made out. It is settled law that a disclosure statement made by the second accused is not admissible if the recovery has already been effected on an earlier statement of a co-accused or its disclosure made. the entire basis of conviction of the petitioner is the second disclosure statement. Ex. PW-3/B which also led to recovery. This cannot be allowed in evidence, The recovery had earlier been effected on the statement made by the co-accused. In this view of the matter, I am of the opinion that no offence has been made out against the petitioner and that there is no evidence to link him with the offence. In these circumstances I see no reason to uphold the judgment of the Additional Sessions Judge, Delhi, and, therefore, allow this petition. The conviction and sentence is set aside. The petitioner is acquitted of all charges.

4. The revision petition is disposed of. The bail bond shall stand discharged.

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