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Subhash Chander Vs. State

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Court : Delhi

Decided On : Sep-20-1994

Reported in : 1994IVAD(Delhi)20; 1995(1)Crimes38; 56(1994)DLT5

Judge : Dalveer Bhandari, J.

Acts : Code of Criminal Procedure (CrPC) , 1973 - Sections 228; Indian Penal Code (IPC) - Sections 120B and 489

Appeal No. : Crl. Revn. No. 92 of 1994

Appellant : Subhash Chander

Respondent : State

Advocate for Def. : G.S. Sharma, Adv.

Advocate for Pet/Ap. : K.K. Luthra, Sr. Adv.,; Siddarth Luthra and; R.P. Luthra

Disposition : Petition dismissed

Judgement :

Dalveer Bhandari, J.

1. This petition is directed against the order dated 20th January, 1994 by which the learned Additional Sessions Judge framed the charges against the petitioner under Section 489-C read with Section 120(B) of the I.P.C.

2. Brief facts necessary to dispose of this petition are recapitulated as under:

On receiving secret information a police party was organized and a raid was conducted. On taking personal search two counterfeit currency notes of Rs. 100/- each were recovered from Vinod Kumar s/o Madan Lal and five counterfeit currency notes of Rs. 100/- each were recovered from the accused Subhash.

3. The petitioner, Subhash made a disclosure statement in which he hadmentioned that he Along with his family members and accused Mrs. Chanchal Rani had gone to Bangkok on 23rd December, 1984.

4. Vinod S/o Dev Raj had to accompany them but he did not have the confirmed ticket and he joined them later. They all stayed in the same hotel and used to have their meals in Chacha Restaurant where they met Pinky and each of them purchased 10,000/- rupees of forged 100 rupee notes for 300 U.S. dollars each. All of them brought this money to Delhi. He gave 10 counterfeit notes to Vinod S/o Madan Lal R/o Paharganj and he gave the remaining notes to Chanchal Rani through Vinod S/o Dev Raj.

5. Thereafter a raid was organized and from the house of Smt. Chanchal Rani three counterfeit currency notes of Rs. 100/- each were recovered. The police seized the passports of all the three accused.

6. The evidence collected by the prosecution in this case shows that the accused Subhash Chander had gone to Bangkok on 23rd December, 1984. This is evident from his passport. The recovery of counterfeit currency notes has been made from Chanchal Rani and Vinod and from the petitioner Subhash Chander. Recovery was also effected from the petitioner and other accused. Petitioner, Subhash has mentioned in his disclosure statement that he Along with Chanchal Rani and Vinod S/o Dev Raj had gone to Bangkok in 1984. Petitioner Subhash, Chanchal Rani and accused Vinod had followed them some time later. These facts were verified and confirmed from the entries of the passport.

7. On the basis of the evidence and various documents, the prosecution has filed a charge sheet under Section 489(C) read with Section 120(B) of the I.P.C.

8. On the basis of the entire documents and evidence on record the prosecution came to the conclusion that the petitioner was in conscious possession of forged/counterfeit notes. Even this fact is established that those forged currency notes were brought to India from Bangkok with the intention of using them as genuine. Section 489(C) and 120(B) I.P.C. reads as under:

489-C. Possession of forged or counterfeit currency notes or bank notes.--Whoever has in his possession any forged or counterfeit currency notes or bank notes, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

120-B. Punishment of criminal conspiracy.--(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in the Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.

9. Mr. Luthra, learned Counsel appearing for the petitioner submitted that the learned Additional Sessions Judge has erred in framing the charge under Section 489C read with Section 120B against the petitioner. He submitted that though the petitionor was in possession of the counterfeit notes but on the basis of available evidence and material on record it is not true that such acquisition of counterfeit notes was with the intention to use the same as genuine. The learned Counsel further submitted that there is no evidence on record to establish that he had acquired the said forged currency notes from Bangkok. He further submitted that the disclosure statement of one accused person cannot be used against the other accused persons unless any recovery is effected consequent to that statement.

10. He further submitted that an offence of criminal conspiracy cannot be framed against the petitioner only on the ground that the petitioner and Chanchal Rani had travelled together to Bangkok.

11. This matter is at a stage when the charges have been framed by the learned trial Court. The Trial Court framed the charges on the basis of relevant material and documents on record. It may be relevant to mention that the co-accused Vinod Kumar S/o Dev Raj has filed a petition against framing the charges by the learned Additional Sessions Judge, dated 20th January, 1994. On 12th July, 1994, this Court dismissed the Revision Petition.

12. Mr. Luthra, learned Counsel submitted that in Bhugdomal Gangaram v. State of Gujarat, : 1983 CriLJ1276 , the Court has laid down that no amount of suspicion constitute legal evidence for sustaining conviction.

13. Learned Counsel also cited : 1979 CriLJ1383 , M. Mammutti v. State of Karnataka. In this case, the Supreme Court observed that once the appellant is found in possession of counterfeit notes, he must be presumed to know that the notes are counterfeit. If the notes were of such a nature that a mere look at them would convince anybody that they were counterfeit such a presumption could reasonably be drawn. But the difficulty is that the prosecution has not put any specific question to the appellant in order to find out whether the accused knew that the notes were of such a nature or not. No such evidence has been led by the prosecution to prove the nature of the notes also. In these circumstances it is impossible for us to sustain the conviction of the appellant.

14. Learned Counsel also placed reliance on Division Bench Judgment of Calcutta High Court in Madan Lal Sarma v. The State, .

15. The cases cited by the Counsel for the petitioner has no relevance. These cases were taken to Court in appeal. In the instant case the petitioner has approached the Court against the mere order of framing of the charge. In this case this Court has been called upon to decide whether on the basis of the available material on record, the Court below was justified in framing the charge.

16. In my considered opinion, the Court was fully justified in framing the charge on the basis of available material and evidence, particularly when the counterfeit currency notes were recovered from the petitioner and other co-accused.

I do not find any infirmity in the impugned order. The petition being devoid of any merit is dismissed.

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