

Chhitar Vs. State

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Court : Rajasthan

Decided On : Jan-06-1956

Reported in : 1957CriLJ155

Judge : Bapna, J.

Appellant : Chhitar

Respondent : State

Judgement :

Bapna, J.

1. This is a revision by Chhitar who was convicted by the Munsif-Magistrate, Malpura, under Section 420 of the Indian Penal Code, and sentenced to two months' rigorous imprisonment and a fine of Rs. 100/-, and in default of the payment of fine, to undergo further rigorous imprisonment for 1-1/2 months by judgment dated 30-6-1955. The accused filed an appeal, but was permitted to Withdraw by the learned Additional Sessions Judge, Tonk, by order, dated 6-10-1955. The accused has filed a revision.

2. The case for the prosecution was that when the accused was working as a Patwari for village Ratanpura, he had obtained Rs. 130/10/3 from various cultivators as rent of Sawal Chak, but did not deposit the same with the Government. He did not issue any receipts to the cultivators by an explanation that

the receipt book was not with him at the time. The accused pleaded that he did not recover any of the disputed amounts, and the case had been cooked against him by Patel Chaturbhuj with whom his relations had been strained.

The learned Munsif-Magistrate recorded evidence of 18 witnesses for the prosecution, 15 of whom were the persons who had paid the amount to the accused. He relied on their evidence having observed that they were illiterate persons, and had been duped by the Patwari into paying the amount without issue of receipts, and that their statements were forthright and reliable. He convicted and sentenced the accused as aforesaid. The accused filed an appeal, but after arguments had been heard and the case fixed for delivery of Judgment, the appellant wanted to withdraw the appeal. This permission was granted, and the appeal was rejected.

3. It may be pointed out that there is no provision in the Code of Criminal Procedure to permit withdrawal of an appeal once admitted for hearing. The Legislature did not contemplate any withdrawal of appeal once lodged, whether by the accused or by the Government, and if the appeal is not summarily dismissed but admitted for hearing, it is not in the power of the Court or of the appellant to allow the appeal to be withdrawn. Reference may be made to *Emperor v. Ghulam Mohammad* AIR 1942 Lah 296 (A), The learned Additional Sessions Judge was, therefore, in error when he dismissed the appeal on application for withdrawal by the accused.

4. On the merits, however, the case rests entirely on oral evidence, and the learned Munsif-Magistrate has carefully gone through that evidence, and there is no reason to disbelieve the villagers who come from various castes and communities, and have deposed how they were led to make payment to the accused, who was then acting as Patwari. and which amount was not deposited in the treasury, and they only came to know of the fact when Raghuraj Singh, successor of the accused, said that the amount was outstanding, and made a fresh demand of the rent for Sawai Chak.

5. The petitioner was rightly convicted and the sentence is not at all severe. The revision is dismissed.

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