

In Re: Adham

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Court : Chennai

Decided On : Feb-07-1991

Reported in : 1992CriLJ2102

Judge : S.T. Ramalingam, J.

Appeal No. : Crl. R.C. No. 241 of 1986 and Crl. R.P. No. 233 of 1986

Appellant : In Re: Adham

Advocate for Def. : Mr. T. Muruganandam, Adv. for Public Prosecutor

Advocate for Pet/Ap. : Mr. R. Gandhi, ;Adv. for M/s. M. Kandaswami and ;L. Chandra Kumar

Judgement :

ORDER

1. The petitioner is the first accused before the Principal Assistant Session Judge, Tiruchi. He along with another accused by name Palraj was tried for an offence under Section 489-C of the Indian Penal Code as he was found in possession of 49 counterfeit currency notes of hundred rupee denomination, marked as M.O. 1 series and was sentenced to undergo R.I. for three years. On appeal, the conviction and sentence were confirmed. Hence this revision.

2. Learned counsel for the revision petitioner contended that the findings of the trial court and that of the first appellate court are contrary to the decision reported

in *M. Mamhutti v. State of Karnataka*, : 1979 CriLJ1383 , wherein the Supreme Court has observed as follows :

'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. No such evidence has been led by the prosecution to prove the nature of the notes also.'

In this case, even though P.W. 1 has stated that the 1st accused has accepted before him that he got 70 counterfeit notes from an unknown person at Dindigul and that while receiving the notes during the night hour, one currency note got dropped out and out of the remaining 69 notes, he was retaining 49 notes and handed over 20 notes to the 2nd accused. In the statement recorded from the accused under Section 313 of the Code of Criminal Procedure, he stoutly denied having stated so. He also denied that he visited the spot along with the 2nd accused. In these circumstances, the question that arises for consideration is how far the evidence of P.W. 1 can be accepted. P.W. 1 is an Inspector (Crimes). He was in the uniform. P.W. 1 has accepted that while he arrested the revision petitioner as also the 2nd accused, he was in his uniform. As such the statement made by the accused to him is inadmissible in evidence under Section 25 of the Evidence Act. Once the evidence of P.W. 1 is eschewed as to character of the notes, then there is nothing connect the revision petitioner with the alleged counterfeit currency notes. In that view of the matter I find the conviction of the revision petitioner is based on no evidence and as such cannot stand.

3. In the result, the revision petition is allowed. The conviction and sentence imposed against the revision petitioner are set aside and he is acquitted.

4. Revision allowed.