

Akram @ Chiti Vs. State

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Court : Delhi

Decided On : Mar-22-2010

Judge : S.L. Bhayana, J.

Acts : Indian Penal Code (IPC) - Sections 392 and 397; ;Code of Criminal Procedure (CrPC) - Sections 313 and 374

Appeal No. : CrI. Appeal No. 556/2009

Appellant : Akram @ Chiti

Respondent : State

Advocate for Def. : Naveen Sharma, Adv.

Advocate for Pet/Ap. : Ritu Gauba, Adv.

Disposition : Appeal dismissed

Judgement :

S.L. Bhayana, J.

1. By this order I shall dispose of the appeal filed by the appellant Under Section 374 Cr.P.C. against the judgment passed by learned ASJ, Karkardooma, Delhi dated 29th April 2009 and order on sentence dated 30th April 2009 wherein learned trial Court has convicted the appellant for the offence punishable Under

Section 392 IPC read with Section 397 IPC. The appellant was sentenced to undergo RI for a period of seven years for the offence punishable Under Section 392 IPC read with Section 397 IPC and also to pay fine of Rs. 2000/- and in default of the payment of fine he shall further to undergo SI for two months for the said offence.

2. The brief facts of the prosecution case are that on 19.12.2004 the complainant Neena Ahuja made a report to the police that she had gone to board a bus route No. 720 from Hans apartment. She boarded the bus No. DL-1PB-1810. After 2/3 minutes one boy entered into the bus and he came near her. He took out a knife and put the open knife on a finger of her hand and snatched her mobile phone bearing No. 9871474514 of Airtel make Nokia Model 8250 and also snatched her hand bag of black colour of small size containing stationary, cash of Rs. 100/-, I-Card of her college Vidhya Bhawan. That boy also threatened her to give whatever she had otherwise he would stab her. She raised alarm on which accused got down from the bus and the bus was also stopped. She chased the boy for some distance. The said boy was chased by two policemen who were present in the area. Two policemen apprehended the accused whose name was Akram @ Chiti and from his possession mobile phone of the complainant was recovered. The aforesaid accused was carrying an open knife. These articles were taken into possession by the police. On the statement of the complainant FIR bearing No. 585/2004, Under Section 392/397 IPC, P.S. Krishna Nagar, Delhi was registered. The police also challaned one more accused namely Abdul in this case. The prosecution in support of its case has examined 10 witnesses. Thereafter evidence was closed by learned APP for the State. Statement of the accused was recorded under Section 313 Cr.P.C. and the entire incriminating evidence was put to them which they denied and pleaded innocence. They did not lead any evidence in defence.

3. Learned Counsel for the appellant submitted that the prosecution has not proved its case beyond reasonable doubt against accused Akram @ Chiti. He has stated that conductor of the bus Ishwar Singh/PW-6 has not supported the case of the prosecution. He was declared hostile and was cross examined by Counsel for the State. Learned Counsel for the appellant submitted that Ishwar Singh, PW-6

was present at the time of incident and therefore he is liable to be acquitted. Learned Counsel for the appellant further submitted that there is one DD entry No. 20A dated 19.12.2004 which is exhibited as Ex. PW-1/D. This DD entry falsifies the case of the prosecution. It shows that accused was not arrested at the spot as stated by the prosecution. I have gone through Ex. PW-1/D and there is nothing in the DD entry No. 20A to suggest that accused was not apprehended at the spot. This is a telephonic information given to the police by someone which was reduced into the writing. Learned Counsel for the appellant further submitted that in the statement of accused recorded Under Section 313 Cr. P.C. before court the appellant has stated that he is innocent and he was falsely implicated in this case. He has further stated that he has been falsely implicated by the police as they wanted to solve their case and the complainant has identified him only at the behest of the police officials. I have gone through statement of the accused recorded Under Section 313 Cr.P.C. This is the defence of the accused which does not find support from the evidence on record and no benefit can be given to the accused of the statement made by him Under Section 313 Cr.P.C. I have gone to the statement of the witnesses. PW-2, Neena Ahuja, is the star witness of the prosecution and she is also the complainant. She has categorically stated before the Court that on the date of incident she had taken bus of route 720 from Hans Apartments in order to go to Shakarpur. The bus started and after 2-3 minutes all of a sudden bus was stopped meanwhile a boy entered into the bus and he came near her. He took out a knife and put the open knife on her finger and snatched her mobile phone bearing No. 9871474514 of Airtel make Nokia Model 8250 and also snatched her hand bag of black colour of small size containing stationary, cash of Rs. 100/- and also I-Card of her college Vidhya Bhawan. That boy also threatened her to give whatever she had otherwise he would stab her. She raised alarm on which the assailant got down from the bus. She chased the boy for some distance and two police officials who were present there also chased the boy and the boy was apprehended by the police. She has identified the accused and stated that the accused is the same person who had snatched mobile phone from her. I have also gone through the cross examination of the witnesses but there is no serious discrepancy pointed out by the Counsel for the appellant which could discredit the credibility of the witnesses. In the cross examination she has

maintained that accused Akram is the same person who had snatched mobile phone and one hand bag from her. PW-4, Mahabir Singh has deposed that on 19.12.2004 he was posted at P.S. Krishna Nagar. On that day he along with Ct. Vijender was on patrolling duty. He has supported the case of the prosecution. He has further deposed that he along with Vijender had chased the accused and apprehended him and from his possession mobile phone was recovered. They also took from his possession knife which the accused was carrying at the time of offence. I have gone through the testimony of Vijender Kumar, PW-5 and testimony of PW-4 Mahaveer Prasad and Neena Ahuja. I have gone through the statement of Sompal, driver of the bus. He has supported the version given by PW-2, Neena Ahuja and other two eye witnesses. I have gone through the cross examination of all these witnesses but no discrepancy has been pointed out by learned Counsel for the appellant which could discredit the credibility of these witnesses. All the witnesses aforesaid have supported the case of the prosecution. They have categorically stated that Akram and none else had robbed Neena Ahuja at the point of knife of her mobile phone and hand bag. Learned trial Court has acquitted accused Abdul as none of the witnesses has identified Abdul in this case. I find that the learned trial Court has rightly convicted and sentenced the appellant in this case.

There is no merit in this appeal. Dismissed.

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