

Vikram Singh Jamwal Vs. State and ors.

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Court : Jammu and Kashmir

Decided On : Jun-10-2004

Reported in : 2005(2)JKJ118

Judge : S.K. Gupta, J.

Acts : Code of Criminal Procedure (CrPC) , 1989 - Sections 173, 550 and 561A;
;Ranvir Penal Code (IPC) - Sections 467, 468, 471 and 472

Appeal No. : 561-A Cr.P.C. No. 75/2004

Appellant : Vikram Singh Jamwal

Respondent : State and ors.

Advocate for Def. : B.S. Salathia, Addl. Adv. General

Advocate for Pet/Ap. : Sunil Sethi, Adv.

Disposition : Petition dismissed

Judgement :

S.K. Gupta, J.

1. The inherent jurisdiction of this Court is sought to be invoked under the provisions of Section 561-A of Code of Criminal Procedure or in the alternative, the petition be treated as Criminal revision, against the order dated 11.3.2003

passed by learned 1st Addl. Sessions Judge, Jammu,, whereby charges have been framed against the petitioner Vikram Singh, for offences under Sections 467, 468, 471 and 472 RPC and for setting aside the same. Facts relevant for appreciating the controversy may, in brief, be noticed as under:

2. Petitioner, Vikram Singh, is an Inspector in Police Department. It is disclosed from the record that petitioner was found in possession of two Maruti Cars, being Maruti Zen under registration NO: JK03-4732 and Maruti Car under registration NO: JK13-2732, in respect of which he got prepared fake registration certificates. Petitioner could not produce the registration certificate during investigation in respect of Car No. JK03-4732. It is further revealed from the challan, produced in the court after investigation and collecting material by the Investigating Officer, that the original registration of vehicle No: JK03-4732, seized from the possession of the petitioner, was PB-10/AG/8292. The petitioner, knowing that the said Car is a stolen property, got fake registration prepared and put a fake number on the vehicle and kept it in his possession. Whereas Maruti Car bearing registration NO: JK13-2732 was kept in the name of his sister, in respect of which ARTO Anantnag-Pulwama, on enquiry, informed in writing that the registration number of the aforesaid vehicle is number of a Motor Cycle in the name of one Gulzar Ahmed Wagay S/O Ghulam Rasool Wagay r/o Buchwara Shopian. The original registration number of Car No. JK-13-2732, during investigation, was found to be DL-9C-A-5739. The challan further reveals that in respect of car No. JK13-2732, Constable Sawal Deep Singh No. 1424/UDR, posted in Police Station, Cheneni, made a statement during investigation that this Car was handedover by Deepak Kapoor PSI to petitioner Vikram Singh and he carried the Car to the house of Vikram Singh on his instructions. He further stated to have remained as PSO of Vikram Singh and is a resident of Kathua, carried the Car under the instructions of petitioner Vikram Singh to Kathua and it was seized under Section 550 Cr.P.C by Police Station Raj Bagh. When the papers of Car NO. JK13-2732 were demanded by Police Station Raj Bagh, he informed that the Car belongs to Vikram Singh, Inspector, SHO Cheneni. He further stated to have informed Vikram Singh on telephone about the seizure of the Car by Police Station Raj Bagh. It is further disclosed from the challan that petitioner, thereafter, by exerting his influence, got the Car released on superdnama from the Court of Judicial Magistrate 1st Class

Kathua, in his name. In this manner the petitioner kept two Cars in his possession out of which one car was got released after getting the documents prepared by the petitioner through his father. It is further found from the challan that petitioner, knowingly that both the cars are stolen cars and have been seized as stolen property, got their fake documents prepared and kept them in his possession, having full knowledge that the documents are forged and fake.

3. On the conclusion of investigation, the prosecution found a case of forgery/cheating against the accused-petitioner and presented the challan in the Court.

4. The trial court, after hearing the parties and, of course, going through the material collected during investigation, alongwith conclusion report under Section 173 Cr.P.C, found a case under Sections 467, 468, 471 and 472 RPC prima facie made out against the petitioner and framed the charges vide its order dated 11.3.2003. The petitioner, feeling aggrieved of production of the challan and framing of charges by the trial court vide order dated 11.3.2003, has sought its quashment through the present petition.

5. The main plank of petitioner's counsel, Mr. Sunil Sethi, is that there is no material gathered during investigation to connect the petitioner with forgery, cheating or using a forged document as genuine. According to Mr. Sethi, the petitioner is a genuine buyer of Car from Deepak Kapoor, relying upon his bonafide being a colleague in Police Department as Sub Inspector. The petitioner had purchased the car for an ostensible consideration of Rs. 1,60,000/- and in addition the petitioner also gave his old Maruti Car NO: DIC 1385. The petitioner also stated to have obtained a receipt besides execution of a sale deed pertaining to the sale of Maruti Zen. Similarly, his sister Neera Jamwal negotiated with Deepak Kapoor and purchased Maruti Car model 1999 bearing registration No. JK13-2732 for a consideration of Rs. One Lac and necessary documents of sale were also executed between the parties. He, however, later on came to know that both the vehicles were stolen property and have been sold by Deepak Kapoor with criminal intention to play a fraud and receive money at the market value. It has further been asserted by Mr. Sethi, that in the absence of any element of cheating

on the part of the petitioner, a clear case of false implication is made out, when there is no specific allegation of fraud or forgery against him.

6. Heard learned counsel for the parties in extenso, perused the record meticulously and went through the relevant provisions of law. It may be pointed out at the first flush that the High Court, while exercising powers under Section 561-A Cr.P.C, does not function as a court of appeal. It also would not enter into appreciation of evidence as such. Inherent powers are to be exercised very sparingly and with circumspection when there has been abuse of process of law and glaring injustice done. It has to be further exercised only in the ends of justice. It is further apt to point out that the relief under this provision cannot be claimed by a party whose hands are dirty with crime and misadventure. In order to exercise the power by the High Court under this provision, three necessary conditions should be fulfilled;

(a) The injustice, which comes to the light, should be of a grave nature.

(b) The injustice, which is noticed, should be clear and palpable, and

(c) There should exist no other provision of law by which the petitioner could have sought the relief.

7. The challan can be quashed or the charge sheet can be set aside only when the allegations made in the FIR and the evidence recorded/material gathered in support of same, taken at their face value and accepted in their entirety, makes out absolutely no case against the petitioner or does not disclose the offence which is alleged against the accused. Where a prima facie case is made out, the accused must face the trial and proceedings cannot be quashed.

8. On going through the record of the case including the FIR, statement of witnesses recorded during investigation and the conclusion report, I have reached a considered opinion that there is prima facie material for presuming that the accused has committed the offence and warrants framing of the charge under Sections 467, 468, 471 and 472 RPC.

9. That apart, when the learned Sessions Judge, after hearing the parties frames a charge and also makes an order in support thereof, the law must take its own course and it would be better for the High Court to allow the trial to proceed. The High Court cannot convert itself into a court of Magistrate or Sessions to consider whether there is evidence or not justifying the framing of the charge against the accused. That apart, where the allegations contained in the FIR and the supporting material collected during investigation referred to in the challan produced in the court, cannot be disbelieved on the face value and there is no evidence which would reveal that the charge has to fail, continuance of prosecution will not be an abuse of process of court. In view of the material against the petitioner in respect of fraud for the purpose of cheating and using the forged documents as genuine, charge sheet cannot be said to be a groundless or continuance of proceedings would be an abuse of process of court. It is for the court to go for meticulous analysis of the case before the trial court to find out whether the case would end in conviction or acquittal.

10. In view of the aforesaid discussion , I am drifted to irresistible conclusion that the petition does not possess any merit and is accordingly dismissed.

11. Record be remitted back forthwith with a direction to the parties through their counsel to cause their appearance before the trial court on 01-07-2004.