

Mohd. Guffran Vs State

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Court : Delhi

Decided On : Aug-12-2010

Judge : Mr. Shiv Narayan Dhingra, J.

Appeal No. : C.M. Appl. No.13207 of 2010 & Crl. M. (Bail) No.1077 of 2010

Appellant : Mohd. Guffran

Respondent : State

Advocate for Def. : Mr. O.P. Saxena, Adv.

Advocate for Pet/Ap. : Mr. Mukesh Kaushik, Adv.

Judgement :

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

1. This revision petition has been preferred by the petitioner against the judgment of the appellate court dated 28th July, 2010 whereby the learned Additional Sessions Judge upheld the conviction of the petitioner under Sections 420/471 read with Section 467 IPC but reduced the sentence from three years awarded by the trial court to six months rigorous imprisonment and in addition directed payment of Rs.1,000/- each as fine for the two offences.

2. The case against the petitioner was that a Maruti Car 800 bearing registration No.DL 6 CB 5991, Chasis No.2060674 and Engine No.3081056 was stolen from outside the House No.269, Hauz Rani, Malviya Nagar, New Delhi. The petitioner was arrested in this case and he got recovered this car. It was found that the petitioner had, by creating false and forge documents mark Q-1 to Q-4 and Q-9 to Q-12, got transferred the car in the name of Mohd. Salim Khan. The petitioner used these documents fraudulently for cheating Mohd. Salim Khan as well as inducing Ghaziabad Transport Authority to transfer the registration of car on the basis of these forged documents. The learned trial court, after considering entire evidence and record, acquitted the petitioner of charges of theft but convicted him under Sections 420/471 IPC read with Section 467 IPC. The learned appellate court after again re-appreciating the entire evidence came to conclusion that commission of offence under Sections 420/471 IPC read with Section 467 IPC was proved beyond reasonable doubt against the accused.

3. By present petition, the petitioner has assailed the order of the learned appellate court on the ground that the evidence produced before the learned trial court was not trustworthy and has been wrongly believed by the trial court and the appellate court and both courts erred in convicting the accused. The prosecution had not examined Ms. Poonam Ghambhir whose car was stolen and had not cited witnesses from transport authority, Delhi to prove the actual engine number and chasis number of the car. It is stated that prosecution also failed to examine certain material witnesses and adverse inference should have been drawn against the prosecution. Perusal of other grounds also shows that the petitioner has assailed the order of learned appellate court on merits as if this court was to hear second appeal.

4. The High Court can interfere under Section 397 Cr.P.C. only if there was an issue of correctness, legality or propriety of any finding, sentence or order recorded or passed by the Sessions Court or there was any irregularity in the proceedings of the Sessions Court. The High Court in its power under Section 397 Cr.P.C. cannot act as a court of second appeal and cannot re-appreciate the entire evidence to substitute its own opinion against the opinion of the appellate court. The scope of revision against the concurrent finding of fact is very limited. The

revisional jurisdiction does not confer power on the revisional court to re-appreciate the evidence on record. The revisional court can examine the record only to satisfy itself that the court below had conducted the proceedings in an appropriate manner and had taken into account entire evidence before passing the judgment. The judgment is not to be resorted to as a second appeal.

5. During arguments, counsel for the petitioner had only been agitating that the conclusion arrived at by the trial court as well as by the appellate court was not correct conclusion and he wanted this court to re-appreciate the entire evidence. I consider that this court in view of Section 393 Cr.P.C. cannot re-appreciate the entire evidence to arrive at a different conclusion than one arrived at by the appellate court. I, therefore, find no force in this revision. The revision petition is hereby dismissed.

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