

Shyam Kumar Vs. State

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Court : Delhi

Decided On : Jan-04-2011

Judge : Shiv Narayan Dhingra, J.

Acts : Indian Penal Code (IPC) - Sections 411,419, 420,467, 468, 471; Code of Criminal Procedure (CrPC) (Cr.P.C) - Section 82, 83

Appeal No. : Crl. Rev No. 730/2010

Appellant : Shyam Kumar

Respondent : State

Advocate for Def. : Mr. Sunil Sharma, Adv.

Advocate for Pet/Ap. : Mr. R.D. Rana; Mr. KM Asad, 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 dated 9th November 2010 of learned ASJ, New Delhi upholding the conviction of the appellant under Section 411/419/420/467/468/471 IPC.

2. The allegations against the petitioner were that the petitioner along with another accused Radhey Shyam committed theft of a draft of Rs.7,000/- which was in the name of Gurdeep Singh and thereafter by forging documents and by impersonation he opened an account in the name of Gurdeep Singh and out of Rs.7,000/-, Rs.6900/- was withdrawn from the account. The signatures of Gurdeep Singh were forged in the account opening form, on the pay in slip and on all other documents for opening the account and withdrawal of money. The learned trial court after considering the entire evidence found that other accused Radhey Shyam had no role in the conspiracy and it was accused Shyam Kumar only, the present petitioner, who was responsible for impersonation, cheating, forging of documents and withdrawal of this money on the basis of forged documents. The learned trial court appreciated the entire evidence by analyzing the testimony of each witness. Thereafter the learned first appellate court again reappreciated the evidence and came to the same conclusion that it was present petitioner who was guilty of offence under Section 411/419/420/467/468/471 IPC.

3. In the revision, the petitioner has again assailed the order of learned first appellate court on merits and has stated that the judgment was passed by the trial court as well as first appellate court without appreciating the evidence. It was also stated that the both the courts below failed to take note of Section 300 Cr.P.C whereby the petitioner should have been released on probation. The sentence awarded by the learned trial court was excessive and harsh.

4. The arguments raised by the petitioner are untenable. This court cannot act as a court of second appeal and cannot reappreciate the entire evidence. As far as grant of probation to the petitioner is concerned, the conduct of the petitioner is not such that he should have been granted probation. After his conviction by the learned trial court, the petitioner was granted suspension of sentence for filing appeal and he filed appeal. Thereafter, he absconded and did not appear before the first appellate court. The proceedings under Section 82/83 Cr.P.C had to be initiated against the petitioner and he could be arrested only after being declared as proclaimed offender. I consider where a person made deliberate attempt to escape from clutches of law after being convicted, he cannot be granted benefit of probation. I find no force in this revision petition. The same is hereby dismissed

with no orders to costs.

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