

Yogesh Sharma Vs. the State (Govt. of Nct)

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Court : Delhi

Decided On : Jul-18-2011

Judge : Ajit Bharihoke, J.

Acts : Indian Penal Code (IPC) - Sections 471, 451, 506, 420, 427, 511, 193, 468, 120B; Code of Criminal Procedure (CrPC) - Section 313

Appeal No. : CRL. REV. P. 167/2005

Appellant : Yogesh Sharma

Respondent : The State (Govt. of Nct)

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

Judgement :

1. This revision petition is directed against the judgment of learned ACMM dated 1st November, 2004 and the consequent order on sentence of the even date whereby the petitioner Yogesh Sharma has been convicted for offence under Section 471 IPC and sentenced to undergo RI for a period of one year, besides fine of ` 1000/- and also the judgment of the learned Additional Sessions Judge in appeal dated 28th January, 2005, whereby he dismissed the appeal on merits.

2. Briefly stated, case of the prosecution is that the petitioner Yogesh Sharma was undergoing trial in case FIR No.312/97 under Sections 427/451/506 IPC, P.S. Sultanpur. He failed to put in appearance on hearing dated 26th September, 2003

and sent his son Kapil with a medical certificate Ex.PW1/A purportedly issued by Alpana Medicare Centre and an application seeking exemption from personal presence through his counsel Sh. Pradeep Tyagi, Advocate. Learned M.M., in order to confirm the genuineness of medical certificate, conducted an enquiry and issued notice to Dr. Arun Aggarwal of Alpana Medicare Centre, 812/4. The notice, however, was received back with the report that such medical centre did not exist at the given address and no doctor with the name of Dr. Arun Aggarwal existed there. Thus, the concerned Magistrate, on the basis of enquiry, prima facie concluded that the medical certificate was forged and got the FIR registered. After investigation, it was concluded that the medical certificate submitted by the petitioner in the court was forged and the petitioner was charge sheeted.

3. The learned ACMM charged the petitioner for offences under Sections 193/468/120B IPC as also under Sections 471 & 420 IPC read with Section 511 IPC. The petitioner pleaded not guilty and claimed trial.

4. In order to bring home the guilt of the petitioner, prosecution has examined three witnesses namely Sh. Pradeep Tyagi, Advocate (PW1), Ajit Kumar, Ahlmad of the Court (PW2) and the Investigating Officer SI Ram Avtar (PW3). Relying upon the testimony of IO SI Ram Avtar, learned ACMM found the petitioner guilty and convicted and sentenced him for offence under Section 471 IPC accordingly.

5. The petitioner in the revision petition claims that medical certificate Ex.PW1/A submitted by him in the court was issued by Dr.Alam Gir @ Kaiser Alam who is still running a clinic in Seelampur, opposite Senior Secondary School. In his statement under Section 313 Cr.P.C., petitioner claimed that he had gone for treatment to Dr.Alam Gir who gave him medical certificate Ex.PW1/A and he was not aware whether the medical certificate was forged or not. The defence taken by the petitioner is not convincing. Otherwise also, he has failed to examine Dr.Alam Gir @ Kaiser Alam to substantiate his defence that medical certificate Ex.PW1/A was issued by the said doctor. From the statement of investigating officer, it is evident that although medical certificate is purported to have been issued by doctor at Alpana Medicare Centre, no such medical centre existed at the given address. Thus, I find no infirmity in the concurrent finding of fact given by learned

ACMM as also learned Additional Sessions Judge who dismissed the appeal.

6. In view of the discussion above, I do not find any illegality or infirmity in the impugned order which may call for interference by this Court in revisional jurisdiction.

7. Petition is accordingly dismissed.

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