

State of Rajasthan Vs. Prem Singh.

State of Rajasthan Vs. Prem Singh.

SooperKanoon Citation : sooperkanoon.com/920416

Court : Rajasthan

Decided On : Jul-11-2011

Judge : Narendra Kumar Jain, J.

Acts : Limitation Act - Section 5; Indian Penal Code (IPC) - Sections Section 279, 337, 338; Motor Vehicle Act. - Section 133

Appeal No. : Case No. CRLLA - 05288 of 2009

Appellant : State of Rajasthan

Respondent : Prem Singh.

Judgement :

1. Heard learned counsel for the applicant and after considering her submissions and for the reasons mentioned in the application, delay in filing the application for leave to appeal is condoned.
2. Application under Section 5 of the Limitation Act stands allowed.
3. Heard learned counsel for the applicant on the application for leave to appeal.
4. This leave to appeal has been preferred against impugned judgment and order dated 09.04.2008 passed by Judicial Magistrate, First Class, Virat Nagar, District Jaipur in Criminal Case No. 38/2005 whereby accused-respondent has been acquitted from offences under Section 279, 337 and 338 I.P.C.

5. I have considered the submissions of learned counsel for the applicant in the light of reasons assigned by the trial court for acquittal of the accused-respondent.

6. The case of accused was that he was not driving the disputed vehicle and challan has been filed only on the basis of notice under Section 133 of the Motor Vehicle Act. Learned trial court referred statement of P.W. 5, Ram Chandra, who stated that accused was driver of the vehicle in dispute, but his statement was not corroborated by any other eye-witness of the case. Other evidence was also taken into consideration. Trial court ultimately recorded a finding that the fact that accused was driving Vehicle No. RJ-02P-1662 is not proved beyond doubt and consequently, gave benefit of doubt to accused-respondent.

7. Learned counsel for the State is unable to point out any illegality or perversity in the said finding, recorded by the trial court.

8. Hon'ble Apex Court in State of Madhya Pradesh vs. Bacchudas alias Balaram & Ors. (AIR 2007 SC 1236) observed that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. Hon'ble Apex Court further observed that the order of acquittal should not be interfered with unless there are some compelling and substantial reason or circumstances for doing so. Para 9 of the judgment(supra) is reproduced as under:

“9. There is no embargo on the appellate court reviewing the evidence upon which an order of acquittal is based. Generally, the order of acquittal shall not be interfered with because the presumption of innocence of the accused is further strengthened by acquittal. The golden thread which runs through the web of administration of justice in criminal cases is that if two view are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. The paramount

consideration of the court is to ensure that miscarriage of justice is prevented. A miscarriage of injustice which may arise from acquittal of the guilt is no less than from the conviction of an innocent. In a case where admissible evidence is ignored, a duty is cast upon the appellate court to reappreciate the evidence where the accused has been acquitted for the purpose of ascertaining as to whether any of the accused really committed any offences or not.

The principle to be followed by the appellate court considering the appeal against the judgment of acquittal is to interfere only when there is compelling and substantial reasons for doing so. If the impugned judgment is clearly unreasonable and relevant and convincing materials have been unjustifiably eliminated in the process, it is a compelling reason for interference. These aspects were highlighted by this Court in *Shivaji Sahabrao Bobade v. State of Maharashtra*(1973(2)SCC 793); *Ramesh Babulal Doshi v. State of Gujarat*(1996(9)SCC 225); *Jaswant v. State of Harayana*(2000(4)SCC 484); *Rajkishore Jha v. State of Bihar*(2003(11)SCC 519); *State of Punjab v. Karnail Singh*(2003(11)SCC 271); *State of Punjab v. Phola Singh*(2003(11)SCC 58); *Suchand Pal v. Phani Pal*(2003(11)SCC 527) and *Sachchey Lal Tiwari v. State of U.P.*(2004(11)SCC 410.”

9. In view of above discussion, I am of the view that learned trial court was absolutely right in giving benefit of doubt and I do not find any compelling and substantial reasons or circumstances to interfere in the finding of the trial court, acquitting the accused-respondent.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com