

Mohanlal Anand

Vs

State (Delhi Administration)

Criminal Appeal No. 25 Of 1971

(A. Alagiriswami, N. L. Untwalia JJ)

10.03.1975

JUDGMENT

ALAGIRISWAMI, J. –

1. The appellant has been convicted under Sections 467 and 471 of the Indian Penal Code by the learned Assistant Sessions Judge of Delhi and his conviction has been upheld by the Additional Sessions Judge of Delhi. The criminal revision petition against the judgment of the Additional Sessions Judge has been dismissed by the High Court of Delhi.
2. The prosecution case was that the appellant gave a cheque for Rs. 325.40 p. dated July 26, 1964 to PW 8, Padam Sain, for the balance of amount due on certain goods he purchased from him. This cheque was later presented at the Punjab National Bank by PW 4, Surrinder Kumar, and it was found that it was engrossed on a cheque leaf from a cheque book issued to Roop Narain Inder Narain. The handwriting expert has given evidence that the body of the cheque is in the handwriting of the appellant but he is not able to say whether the signature that the cheque bears is in the handwriting of the appellant. It is, therefore, not possible to say that the appellant must have forged the cheque. It should be mentioned that the appellant has been acquitted of the charge of theft of cheque leaves. The giving of the cheque was sought to be established, among other things by producing the account book of Padam Sain. No reliance can be placed on this book. The relevant page from the account book purports to be the account of the accused but it has many entries in the name of other parties. All of them are of the same date. The account book gives the folio page for the appellant's transaction alone but not for the transactions of the other parties. It may be a day-book but if that is so it need not bear the appellant's name at the top. It is also difficult to understand why the appellant should have carried a cheque with him for the exact amount of Rs. 325.40. He is purported to have purchased goods for Rs. 345.72 and paid Rs. 20.32 in cash. One can understand if the cheque were for a round sum. It does not appear that the rubber stamp, which the cheque bears, is the name of the firm of the appellant. It is difficult to understand how exactly PW 8 accepted this cheque and that too when it was a post-dated one. What is more curious is that he sent it to the bank nearly a month later through witness Surrinder Kumar, PW 4. Curiously enough there is a document which purports to be a confession by both Surrinder Kumar and the appellant admitting that they gave a cheque to PW 8 and gave the goods to Roop Narain. As Surrinder Kumar is the person who presented the cheque at the bank it may be that Surrinder Kumar himself might have brought the cheque into existence. In any case the whole story about the giving of the cheque by the appellant to PW 8 is so unnatural and improbable that it would be dangerous to base any conviction on such evidence. The so-called extra-judicial confession is fatal to the prosecution case. The conviction under Section 471 cannot also therefore be sustained.

3. The appeal is, therefore, allowed and the sentence imposed on the appellant by the Assistant Sessions Judge and confirmed by the Additional Sessions Judge is set aside.

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