Krishna Lal

Vs

State of Delhi

Criminal Appeal No. 128 of 1971

(M.H. Beg, P.N. Bhagwati, R.S. Sarkaria JJ)

27.08.1975

JUDGMENT

BHAGWATI, J. -

1. The appellant was tried in the Court of the Additional Sessions Judge, Delhi for various offences which included inter alia an offence under Section 467 of the Indian Penal Code. The prosecution case against the appellant in so far as it related to the charge under Section 467 was that he dishonestly and fraudulently signed as Madan Sain at two places on the money order Ex. PW 2/B which was sent by the Employees State Insurance Corporation to one Madan Sain and received the amount of the money order from the postman Mahavir Singh, PW 8, and he was thus guilty of the offence under Section 467. The learned Additional Sessions Judge, who tried the case, accepted the evidence led on behalf of the prosecution and came to the conclusion that the charge against the complainant under Section 467 was established beyond reasonable doubt and he accordingly convicted the appellant of the offence under that section and sentenced him to suffer rigorous imprisonment for nine months. The appellant preferred an appeal against the order of conviction and sentence to the High Court of Delhi. The High Court in appeal discarded the evidence of the postman Mahavir Singh, PW 8, as that of an accomplice, but so far as Ram Rakha Mal, PW 10 and B. R. Handa, PW 15 were concerned, the High Court found their evidence reliable and trustworthy and on the basis of their evidence, came to the conclusion that it was satisfactorily established by the prosecution that the accused had dishonestly and fraudulently signed as Madan Sain at two places on the money order Ex. PW 2/B and received the amount of the money order from the postman Mahavir Singh, PW 8, though he was not Madan Sain and was hence not entitled to the amount of the money order. The High Court, in this view confirmed the conviction of the appellant under Section 467, but reduced the sentence of imprisonment from nine months to six months. This order passed by the High Court is assailed in the present appeal brought by special leave obtained from this Court.

2. The conviction of the appellant for the offence under Section 467 rests on the evidence of two witnesses, namely, Ram Rakha Mal, PW 10 and B. R. Handa, PW 15. These two were eyewitnesses to the incident is which the money order Ex. PW 2/B despatched by the Employees State Insurance Corporation to Madan Sain was dishonestly and fraudulently signed by the appellant as though he were Madan Sain and the amount of the money order was collected by Him. B. R. Handa, PW 15, was a Deputy Superintendent of Police who accompanied the raiding party and he clearly deposed that the appellant and the postman Mahavir Singh, PW 8, went near a cloth shop and there, the postman Mahavir Singh, PW 8 gave the money order PW 2/B to the appellant and the appellant put his signatures upon it and then the postman Mahavir Singh, PW 8 delivered some currency notes to the appellant. Ram Rakha Mal, PW 10 was an Assistant Settlement Officer and he was taken as a

panch witness by the raiding party and his evidence was also to the same effect as that of B. R. Handa, PW 15. The learned Additional Sessions Judge as well as the High Court critically examined the evidence of these two witnesses and came to the conclusion that they were reliable witnesses whose word could be accepted without hesitation. We do not see any reason to take a different view, particularly when we find that both the learned Additional Sessions Judge as well as the High Court agreed in their appreciation of the evidence of these two witnesses and found it sufficiently worthy of credence to base a conviction upon it. We must, therefore, conclude that the appellant was rightly held guilty of the offence under Section 467 of the Indian Penal Code.

3. That takes us to the question as to whether the sentence imposed on the appellant can be regarded as excessive and it requires to be reduced. The learned Counsel appearing on behalf of the appellant submitted that the appellant had already spent about one and a half months in jail before he was released on bail by this Court and having regard to the fact that he was an ordinary lower division clerk drawing a meagre salary of less than Rs. 200, it would be very harsh to send him back to jail for the purpose of serving out the remainder of the sentence and that, in the circumstances, the sentence should be reduced to that already undergone by him. It is true that the appellant was a man of small means earning a miserable pittance barely sufficient to meet the basic necessities of life and out of sheer economic compulsion, he might have been tempted to forge the money order Ex. PW 2/B and collect the amount represented by it, and that might, in a legal system which is concerned more with the criminal than with the crime and which is more anxious to eradicate the cause of crime rather than punish the criminal, legitimately from a valid consideration for imposing a lighter punishment. It is also true, as observed by Mr. Justice Krishna Iyer in his Order, dated July 8, 1975 in the Special Leave Petition (Criminal) No. 586 of 1975 (Suresh Chandra v. State of Gujarat, (1976) 1 SCC 654 (para 2)), that "it is the lesser minions who get caught and purging public life of maxi-corruption by deterrent sentences is more desirable but less feasible". But at the same time it must be remembered that the gravity of offences such as this committed by public officials cannot be allowed to be minimised by misconceived judicial compassion. We do not think that in the circumstances of the case the sentence of six months' imprisonment imposed by the High Court can be said to be harsh or unjustified.

4. We may make one observation before parting with this case. Penological innovation in the shape of parole is claimed to be a success in rehabilitation and checking recidivism. Here, the appellant is a first offender and a small official relatively young in his career. Though the offence committed by him deserves no sympathy, it would be a matter for the consideration of the authorities or others vested with the requisite power, whether the appellant should not be released on parole after he has served a fair portion of his sentence. This would of course depend upon his behaviour in jail showing that he has turned a new leaf. If he does not, be cannot hope for clemency of law and may have to serve his full term of imprisonment.

5. We accordingly dismiss the appeal. The appellant will surrender to his bail.

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