

Mohan Lal

Vs

State of Maharashtra

Criminal Appeal No. 206 of 1972

(Syed M. Fazal Ali, A. D. Koshal JJ)

06.04.1979

JUDGMENT

FAZAL ALI, J. –

In this appeal by special leave, the appellant has been convicted under Section 411 of the Indian Penal Code and sentenced to six months' RI and fine of Rs. 1000. The only ground on which special leave appears to have been granted, in this case, was that there was absolutely no evidence to show that the appellant had the knowledge or reason to believe that the bags recovered from his godown were stolen property. The facts of the cases have been fully detailed in the judgment of the Sessions Judge as the High Court summarily dismissed the appeal. Mr. V. S. Desai, senior Counsel, appearing in support of the appeal submitted that there was no evidence to show that the empty bags recovered from the shop to the appellant were the very bags that had been brought from the godown of the Engineering College from where they were stolen. Dr. Chitale for the State, however, submitted that though the bags had no special mark of identification but prosecution proved by direct evidence of the cartman and the driver of the truck that the bags were brought from the godown of the Engineering College to the shop of the appellant. But that, however, does not solve the problem because the prosecution has still to prove that the appellant was in possession of property which he had reason to believe that it was stolen property. On this point there is absolutely no evidence, nor is there anything to show that the appellant himself had got the empty bags from the Engineering College or that he made payment to the driver of the truck. Payment according to the prosecution was made by accused 4. The only fact that has been proved is that the shop was run by accused 4 and 5 and the appellant was only a partner in the business carried on in his shop. The mere presence of the appellant in the shop where the goods were delivered does not itself prove the essential ingredients for an offence under Section 411 IPC. The appeal is, therefore, allowed and the appellant is acquitted of the charges framed against him. The appellant will now be discharged from his bail bonds. Fine if paid must be refunded.

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