

Phanindra Prasad Shukla and Another

Vs

State of Madhya Pradesh

Criminal Appeal No. 71 of 1972

(A. D. Koshal, R. S. Pathak JJ)

26.03.1980

JUDGMENT

PATHAK, J. –

1. This appeal by special leave is directed against the judgment dated January 10, 1972 of the High Court of Madhya Pradesh affirming, in its appellate jurisdiction, the conviction and sentence of the appellants.
2. The appellants, P.P. Shukla and Uttam Singh, are two of the original five accused. The other accused were acquitted by the learned Additional Sessions Judge and Special Judge, Bhopal, but the present appellants were convicted under Sections 5(1)(c) and 5(1)(d), Prevention of Corruption Act read with Section 5(2) of that Act respectively, and under Sections 109 and 120-B of the Indian Penal Code. Shukla was, in addition, convicted under Section 477-A, Indian Penal Code. Shukla was sentenced to two years' rigorous imprisonment and Uttam Singh to one year's rigorous imprisonment on each count, the sentences to run concurrently. Shukla and Uttam Singh appealed to the High Court, and on January 10, 1972 the High Court while setting aside the conviction and sentence imposed on the two appellants under Section 120-B, IPC maintained the conviction and sentence on the other counts.
3. It appears that a sum of Rs. 2,50,000 was placed at the disposal of the Agriculture Department, Government of Madhya Pradesh, for the execution of a Contour Bunding Scheme in the Sehore district of the State. Shukla was the Agricultural Assistant in charge of the scheme covering Phanda, Block No. 2, and Uttam Singh was the contractor for the supply of boulders in execution of the work. The construction of fourteen waste-weirs was planned, each waste-weir requiring one brass (100 cft.) of boulders. Uttam Singh was paid Rs. 42 on account of pitching charges, Rs. 202.50 paise for the supply of 10 brass of boulders and Rs. 500 for the supply of 20 brass of boulders.
4. The case of the prosecution was that the appellants along with three other officers of the Agriculture Department entered into a criminal conspiracy to commit misappropriation of Rs. 744.50. They joined together and falsely showed a purchase of thirty brass of boulders. False documents were prepared, it is alleged, by Shukla which facilitated misappropriation of the fund. The High Court has found that only six of the fourteen waste-weirs were constructed, and thirty brass of boulders were shown utilised while in fact only ten brass had been supplied.
5. It is pointed out by learned counsel for the appellants that while the evidence adduced by the prosecution attempted to show that there was no supply of boulders at all by Uttam Singh, the court has found that a part of the stipulated quantity was actually supplied. Therefore, it is urged, the case

of the prosecution must be regarded as false and, consequently, the conviction and sentence must be quashed. The submission appears to be that the case of the prosecution must be taken as an integrated whole, and it can succeed only if it is found that no part of the stipulated quantity was supplied. The contention is plainly without substance. It is true that the evidence led by the prosecution attempted to prove that Uttam Singh did not supply any boulders. But it is clearly established that a substantial part of the contracted supply was not made. The finding, in our opinion, is sufficient to warrant the conviction of the appellants. It is not a case where the facts on which the allegation rests are so integrally related that if a part of the case is not proved the rest must fail.

6. It is next urged that Uttam Singh, on whose complaint the prosecution was launched, has no right to complain as the vouchers leading to the payment were attested by his son, Gulab Singh. We are unable to see how the mere attestation of the vouchers by Gulab Singh can detract from the guilt of the appellants. There is nothing in the vouchers to show what were the specific waste-weirs for which the vouchers had been prepared and payment made. In any event, the conviction of the appellants is founded on an overall assessment of the evidence and is not vitiated by the circumstance on which the learned counsel now rests his submission.

7. Finally, a plea has been addressed to us in regard to the severity of the sentence. It is pointed out that the matter relates to the year 1963 and since then the appellants have suffered the ordeal of a criminal trial and thereafter the continuing trauma of conviction and sentence. In particular, reference is made to Shukla's youth and immaturity when he committed the offences. We have considered that matter, and are of opinion that the ends of justice will be satisfied if the sentence of a year's rigorous imprisonment is substituted for that of two years' rigorous imprisonment imposed on Shukla under the different counts. Subject to this modification of the sentence, the appeal is dismissed.

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