

State of Karnataka

Vs

M. Obanna and Others

Criminal Appeal Nos. 24-25 of 1979

(S. Natarajan, Kuldip Singh JJ)

29.03.1989

ORDER

1. Both the appeals have been preferred by the State of Karnataka against a common judgment of the High Court in Criminal Appeal No. 139 of 1976. The convictions of accused 1 under Section 5(2) read with Section 5(1)(d) of the Prevention of Corruption Act, 1947 and under Section 381 and Section 420 IPC were confirmed but the substantive sentence was reduced to imprisonment till the rising of the court on each count and fine of Rs. 1000, in default to undergo RI for three months while the convictions of accused 2 under the same charges were set aside. Hence, Criminal Appeal No. 25 of 1979 has been filed for enhancement of sentence to accused 1 and Criminal Appeal No. 24 of 1979 has been filed to set aside the acquittal of accused 2.

2. On being taken through the records of the case and bearing the arguments of Shri K. L. Sharma, learned counsel for the appellant State, we do see the High Court has been very lenient in reducing the sentence awarded to accused 1 to imprisonment till the rising of the court and to pay a fine of Rs. 1000 for the offences committed by him. As a bank employee, accused 1 had utilised the signed cheque leaves of accused 2 and drawn a sum of Rs. 8400 even through accused 2 did not have more than Rs. 100 in his account. The offences committed by accused 1 did therefore warrant adequate sentence. Even so we do not feel persuaded to interfere with the judgment of the High Court at this belated stage. In addition to the factors which the High Court took into consideration for reducing the sentence, viz, the re-deposit of the money wrongfully drawn from the bank, the loss of job for the accused and his young age, the long passage of time after the appeal was filed has also to be taken into reckoning. We do not therefore think that we should in exercise of our powers under Article 136 interfere with the sentence awarded by the High Court after so many years have passed by.

3. Insofar as accused 2 is concerned, the High Court had held that the charge of conspiracy between accused 1 and accused 2 has not been proved. Once the charge of conspiracy is held disproved, then there is no evidence against accused 2 except his having handed over to accused 1 his cheque book containing several leaves with his signature in them. Accused 2 had taken the stand that he was in the habit of putting his signature on all the cheque leaves and that he had not suspected that the signed cheque leaves would be misused when he gave the cheque book to accused 1 when he offered to help him in closing the bank account. The High Court has accepted the explanation offered by accused 2. It cannot be said that the view taken by the High Court is so manifestly wrong that it calls for interference by this Court. At best it may be said that the view taken by the High Court is less commendable for acceptance than the view taken by the trial Judge for rejecting the explanation given by accused 2 and finding him guilty along with accused 1.

4. For the aforesaid reasons, both the appeals fail and are dismissed accordingly.

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