

Shambhu Singh

Vs

State of U.P.

Criminal Appeal Nos. 407, 600, 349 and 399 of 1980

(K. Jayachandra Reddy, R. C. Patnaik JJ)

06.02.1992

JUDGMENT

1. The appellants in all these appeals are connected with the business in a co-operative society called Qutubpur Sadhan Sahkari Samiti. Surjan Singh, appellant in Criminal Appeal No. 600/80 was the Sarpanch and Chairman of the Managing Committee, Shambhu Singh, appellant in Criminal Appeal No. 407/80 was the Treasurer, Jai Gopal Sharma, appellant in Criminal Appeal No. 399/ 80 was the Accountant and Prahlad Singh Tyagi, appellant in Criminal Appeal No. 349/80 was the Supervisor. The Society used to advance loans to the cultivators. In June, 1970, some of the accused were alleged to have entered into a conspiracy and forged documents by which they drew large sums of money from the Bank and misappropriated the same. The amounts withdrawn were meant to be disbursed to the cultivators. It was found that 16 persons amongst the cultivators, who were the members of the Society, had not taken loans and it was shown that the disbursement was made to each one of them. The matter was entrusted to the Police for being investigated and after due investigation, the four accused were charge-sheeted for offences punishable under Ss. 120-B, 409, 467, 471 read with S. 120, I.P.C. The trial Court relying on the oral and documentary evidence sentenced each one of them to undergo four months' R.I., three years' R.I. and a fine Of Rs. 5,000/- four years' R.I. and a fine of Rs. 5,000/ - and one year's R. I. and a fine of Rs. 1,000 /- respectively under each of the said counts. Separate appeals filed by these convicted accused were dismissed by the Sessions Judge. Thereafter, they filed four Criminal Revision Petitions in the High Court and the learned single Judge by a common order disposed of these four revision petitions confirming the convictions and sentences awarded. These four appeals pursuant to the special leave granted are directed against the order of the High Court in the said revision petitions.

2. Shri Anil Kumar Gupta, learned counsel appearing in Criminal Appeal No. 600/ 80 for the appellant Surjan Singh, the Sarpanch and Chairman of the Managing Committee, submits that even if the prosecution case is accepted, no conspiracy is made out. We find from the order of the High Court that Surjan Singh, the Sarpanch and Chairman of the Managing Committee, signed resolution sanctioning loans and also signed the Disbursement Certificate. Learned counsel submits that this is the normal duty and from this alone it cannot be said that he had any sinister motive in signing those documents. What we have to see is that the entire gist in a case of conspiracy is the agreement to commit the offence. All the three courts below have examined the material on record and, particularly, taking into consideration that 16 applicants did not receive the loans in the manner alleged by the accused, took the view that the offence of conspiracy is made out. We see no ground to interfere with the concurrent findings arrived at by the courts below.

3. Now coming to the sentences of the appellants, there are certain circumstances to be taken into consideration. The occurrence is said to have taken place in the year 1970. Surj an Singh, Sarpanch

and Chairman of the Managing Committee (appellant in CrI. Appeal No. 600/80) was aged about 80 years at the time when the special leave was granted by this Court. The learned counsel is not in a position to state whether he is alive or not. Having regard to the age and the nature of his participation, we feel that ends of justice will be met if the sentence is reduced reasonably. The other three appellants have already undergone imprisonment for some periods. Shambhu Singh, the Treasurer, appellant in Criminal Appeal No. 407 / 80 was in jail for a month. Jai Gopal Sharma, the Accountant, appellant in Criminal Appeal No. 399/ 80 was in jail for about one year and Prahlad Singh Tyagi, the Supervisor, appellant in Criminal Appeal No. 349/ 90 was in jail for more than three weeks. All those appellants who have served lesser term of sentence can be punished with some more fine. Accordingly, Criminal Appeal No.600/80 filed by Surjan Singh is dismissed with the modification that the sentence of imprisonment under each count is reduced to the period already undergone and the sentence of fine and default sentences are confirmed. The Criminal Appeal No. 399/ 80 filed by Jai Gopal Sharma is dismissed with the modification that the sentence is reduced to the period already undergone and the sentence of fine ordered by the courts below and default sentences are confirmed. In addition, he shall pay a fine of Rs. 500/ - in default of which he will undergo two months' R. I. Criminal Appeal No. 349 /80 filed by Prahlad Singh Tyagi is dismissed with the modification that the sentence of imprisonment under each count awarded by the lower Court is reduced to the period already undergone and the sentence of fine ordered by the courts below and default sentences are confirmed. In addition, he shall pay a fine of Rs. 2,000/- in default of which he will undergo six months' R. I. Criminal Appeal No. 407/80 filed by Shambhu Singh is dismissed with the modification that the sentence is reduced to the period already undergone and the sentence of fine ordered by the courts below and default sentences are confirmed. In addition, he shall pay a fine of Rs. 1,500/- in default of which he will undergo four months' R.I.

4. With these modifications, all the four appeals are dismissed. Order accordingly.

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