

SUPREME COURT OF INDIA

Tarun K. Shah

Vs.

C.R. Alimchandani

Crl.A.No.553 of 2000

(B.N.Kirpal and D.P.Mohapatra JJ.)

18.07.2000

ORDER

S.L.P. (Crl.)No. 3889 of 1999

1. After hearing learned Counsel for the parties, we see no reason to interfere with the decision of the High Court. The special leave petition is dismissed accordingly.

S.L.P. (Crl.) No. 304 of 1999

2. Leave granted.

3. We have heard learned Counsel for the parties.

4. The appellant herein had filed a complaint against Shri C.R. Alimchandani, Chairman and Managing Director of Stup Consultant, Shri P.B. Joshi, Principal Manager, (Finance) and Company Secretary of the said Company and Shri K. Sivaram, Joint Secretary and Manager (Finance) in the Court of Additional Chief Metropolitan Magistrate, 37th Court, Esplanade, Mumbai, being case No. 2167/ Misc./90.

5. The complaint which was filed alleged that the said three accused had committed offence under Sections 465 and 466 read with Section 34 of the Indian Penal Code inasmuch as they had filed a certificate in the Court in a pending proceeding between the petitioner and the Company, a document purported to have been issued by the Bombay Municipal Corporation which document was a forged one.

6. On the basis of the complaint which was filed, summons were issued by the Magistrate who came to the conclusion vide his order dated 12. 11. 1990 that prima facie offence was disclosed against all the three accused persons under Sections 465, 466 read with Section 34 of the Indian Penal Code.

7. Against the issuance of the summons, the accused filed a Criminal Writ Petition No. 1276/91 in the Bombay High Court. By the impugned judgment dated 13.10.1998, the learned Judge came to the conclusion that the allegations contained in the complaint, some portions of which were extracted in the judgment, were not sufficient to implicate accused Nos. 1 and 3.

8. According to the learned Judge, accused No. 2 namely P.B. Joshi, stood implicated in the forgery of the said document. The learned Judge quashed the proceedings against accused Nos. 1 and 3.

9. The special leave petition (crl.) No. 3889/99 of P.B. Joshi has been dismissed by us.

10. After hearing learned Counsel for the parties and without going into any great detail, we find that the High Court erred in quashing the proceedings which had been initiated against respondent Nos. 1 and 3. The learned Judge came to the conclusion that it was incumbent upon the part of the complainant to plead the role of each accused in the making or manufacturing of the document in question. This document had been produced in the Court on behalf of the Company of which accused No. 1 was Chairman and Managing Director and accused No. 3 was Joint Secretary and Manager (Finance). In the complaint it was specifically stated "I submit that the accused have together forged the subject certificate (letter) of viz. inspection extract in respect of Award No. 1316 (2-2A) BBB-12...".

11. Without expressing any opinion on the merits of the case so that no prejudice is caused to any party, we are of the opinion that the complaint which was filed specifically alleged that all the three accused had in a sense together forged the document which was presented in the Court. It is possible that this allegation may be incorrect, whole or in part. We are not considering this question at this stage.

12. The High Court, in our opinion, in the facts of the present case, was not justified in quashing the order of the Magistrate who had issued summons to accused Nos. 1 to 3. For the aforesaid reasons, the order of the High Court is set aside and that of the trial court is upheld. The appeal is allowed. All the accused will be entitled to raise such pleas as are open to them in accordance with law.