

SUPREME COURT OF INDIA

P.V. Antony

Vs.

State of Kerala

CrI.A.No.1277 of 1998

(B. N. Agarwal and A. S. Lakshmanan JJ.)

06.04.2004

JUDGMENT

B. N. Agarwal, J.

1. Heard the parties.

2. Both the appellants were charged and tried for offences under Sections 120B, 420, 467, 468 and 471 of the Indian Penal Code (hereinafter referred to as 'the IPC') and by judgment rendered by the trial court, they were acquitted of the charges under Sections 467 and 468 of the IPC but convicted under Section 120B of the IPC and sentenced to undergo rigorous imprisonment for a period of six months. They were further convicted under Sections 420 and 471 of the IPC and each one of them was sentenced to undergo rigorous imprisonment for a period of one year and two years respectively. The sentences were, however, ordered to run concurrently. So far order of acquittal is concerned, no appeal was preferred against the same, whereas against their convictions the appellants preferred an appeal before the sessions court which set aside their convictions and recorded acquittal in respect of the charges under Sections 120B, 420 and 471 of the IPC as well. Thereupon, State of Kerala preferred an appeal before the High Court against the order of acquittal which has been allowed and the order of acquittal recorded by the appellate court set aside and order of conviction rendered by the trial court restored. Hence, this appeal by special leave.

3. The occurrence is said to have taken place 29 years ago in the year 1975. Out of two appellants, appellant No.2, Dr. P.A. Verghese has already died, as such his appeal has abated. The order of acquittal passed by the trial court under Sections 467 and 468 of the IPC having not been assailed before any higher court has attained finality. In our view the order of acquittal recorded by the appellate court should not have been interfered with by the High Court as the reasonings given by appellate court cannot be said to be perverse in any manner rather view taken by it is reasonable and possible one. It is well settled that in appeal against acquittal, appellate court can interfere with the same only if it is found to be perverse. For the foregoing reasons, we are of the opinion that the High Court was not justified in interfering with the order of acquittal passed by the appellate court.

4. The appeal is accordingly allowed, the impugned judgment rendered by the High Court is set aside and the order of acquittal recorded by the appellate court is restored. The appellant No.1, P.V. Antony, who is on bail is discharged from the liability of bail bonds.