

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Reserved on: 20th May, 2013
Decided on: 30th May, 2013

+ **CRL.A. 105/2003**

BHANWAR SINGH Appellant
Through: Mr. R.P. Luthra and Mr. Vishal
Chadha, Advocates.
versus

GOVT. OF NCT OF DELHI Respondent
Through: Mr. Manoj Ohri, APP for the State
with SI Pawan Kumar, PS Vikas Puri.

AND

+ **CRL.A. 548/2003**

SAKALDEEP Appellant
Through: Mr. Stalin Mani, Advocate.
Appellant in custody.
versus

STATE (GNCT) OF DELHI Respondent
Through: Mr. Manoj Ohri, APP for the State
with SI Pawan Kumar, PS Vikas Puri.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

1. The Appellants challenge the impugned judgment dated 15th November, 2002 convicting the Appellants for offence punishable under Section 489C IPC and the order on sentence dated 21st November, 2002 whereby they have been directed to undergo Rigorous Imprisonment for a period of two years with fine of Rs. 10,000/- each and in default of payment of fine to undergo simple imprisonment for a period of six months.

2. Learned counsel for the Appellant Bhanwar Singh contends that there was only recovery of one note of Rs. 500/- denomination from the pocket of Bhanwar Singh. No public witness was joined. There is contradiction in the statement of the witnesses. PW2 HC Rajender Singh stated that the recovery was from the front pocket of the shirt worn by the Appellant whereas PW5 SI Om Prakash stated that there was only one pocket on the left side and the recovery was made from there. PW5 SI Om Prakash stated that the SHO took out the currency note of Rs. 500/- from the pocket of Bhanwar Singh whereas the other two witnesses stated that the SI Om Prakash recovered the currency notes. Further Section 100 Cr.P.C. has been violated and at the time of search conducted at the premises of the Appellant, no public witness was associated. In view of the contradictory evidence and there being no corroboration to the testimony of the witnesses, the Appellant be acquitted of the charges framed or in the alternative he be released on probation or the period already undergone as the Appellant is not involved in any other case.

3. Learned counsel for the Appellant Sakaldeep while adopting the arguments of the learned counsel for the Appellant Bhanwar Singh further states that the prosecution has not proved that the allegedly recovered notes were kept in proper custody. Further PW5 SI Om Prakash admitted that at the time of search of the house of the Appellant Sakaldeep, two-three people were present, however they have not been made witnesses. Hence the appeal be allowed.

4. Learned APP for the State on the other hand contends that after the chance recovery of Rs. 500/- from the Appellant Bhanwar Singh, house search of Bhanwar Singh was conducted and 18 fake currency notes of Rs.500/- denomination were recovered which bore the same number as that

of the note recovered from the pocket of the Appellant Bhanwar Singh. Further the search of the house of the Appellant Sakaldeep was conducted from where 45 fake currency notes of Rs. 500/- denomination bearing the same numbers were recovered along with two papers printed with fake currency notes on one side. It thus shows that the Appellants were into large scale illegal activity of preparing the fake currency notes and circulating them. The contention that public witnesses were not associated is liable to be rejected as even in the absence of public witness conviction can be safely based on the testimony of the police witnesses. Reliance is placed on State of *U.P. vs. Anil Singh, 1988 (suppl.) SCC 686* and *Karamjit Singh vs. State (Delhi Admn.), 2003 (5) SCC 291*.

5. I have heard learned counsel for the parties.

6. Briefly the case of the prosecution as per the statement of PW5 SI Om Prakash is that on 21st May, 1999 he along with HC Rishi Pal and Constable Sanjay Kumar was on patrol duty in C-Block Market, Vikas Puri. At about 8.30 p.m. HC Rajender Singh met him and informed that an informer had told that a person was having in his possession a counterfeit currency note of Rs. 500/- denomination and was trying to pass it as genuine. A raid was conducted. The SHO also reached the spot and the Appellant Bhanwar Singh was apprehended. On search conducted one currency note of denomination of Rs. 500/- was recovered from the front pocket of the shirt worn by the Appellant. It bore no. 5AN 872655. The currency note was found to be counterfeit which could be made out from the feel of the currency note itself. On inquiry the Appellant Bhanwar Singh stated that he had obtained the currency note from one Sakaldeep who was a resident of Kali Basti, Uttam Nagar. Note was taken in possession vide memo Ex.

PW2/A and ruqqa Ex. PW5/A was sent for registration of FIR. On the disclosure statement of the Appellant Bhanwar Singh Ex. PW2/F, a search was conducted at his house in Keshavpuram Village from where he got recovered 18 fake currency notes of the denomination of Rs. 500/- each and eight fake currency notes of Rs. 100/- denomination each from underneath the pillow lying on the bed in his room. The Appellant Bhanwar Singh led to the house of the Appellant Sakaldeep, who produced 45 fake currency notes of denomination of Rs. 500/- each. He also pointed out to a place where some papers were lying including two currency notes printed only on one side and blank on other side.

7. The only contradiction pointed out is that PW5 SI Om Prakash stated that the first currency note of Rs. 500/- was recovered by the SHO whereas the other witnesses have stated that the same was recovered by SI Om Prakash. It may be noted that besides the first currency note recovered from the pocket, 18 more fake currency notes of Rs. 500/- denomination each and eight fake currency notes of denomination of Rs. 100/- were recovered from underneath the pillow of Appellant Bhanwar Singh's bed. It is thus apparent that the Appellant Bhanwar Singh is not a victim to whom fake currency notes had been passed in the ordinary course of transaction and thus caught with it. He was in conscious possession of the fake currency notes. Further except for this contradiction, there is no contradiction in the testimony of the police witnesses and merely because no public witness was associated when the recovery was made from the residence of the Appellants, the testimony of the police witnesses cannot be rejected as held in *Karamjit Singh* (supra).

8. The fake currency notes were duly seized vide memo and sent for opinion to RBI. PW3 S.K. Kochar, retired Treasurer of RBI appeared in the

witness box and stated that he received an application from the SHO, Vikas Puri along with four sealed covers said to contain forged currency notes with seal of OPR. All the currency notes in the envelope were found to bear the same number i.e. 5AN-872655 and were counterfeit. Further the case property was deposited with the MHCM, PS Vikas Puri in the sealed condition. MHCM, PW7 HC Om Prakash, PS Vikas Puri stated that he had made entries in this regard in Register No. 19 and about the depositing and sending all the four sealed parcels to the RBI. He also produced the original road certificate in this regard. The notes were sent through Constable Surrender to be deposited with RBI and thus the prosecution has proved the link evidence beyond reasonable doubt.

9. The present is further not a case where as stray person, the Appellants were not aware that the currency notes were fake as the witnesses have stated that on touching the notes itself, it could be made out that the currency notes were fake. Further one side printed notes were also recovered from the possession of Sakaldeep. Thus the prosecution has been able to prove the conscious possession of the Appellants as regards the fake currency notes beyond reasonable doubt and thus I find no error in the impugned judgment convicting the Appellants for offence under Section 489C IPC.

10. This takes me to the order on sentence. The Appellants have been awarded imprisonment for a period of two years. The punishment prescribed for an offence under Section 489C is for a term which may extend to seven years or with fine. In view of the gravity of the offence as introduction of fake currency notes seriously affects the economy of the country, I do not find it to be a fit case to either release the Appellants on probation or the period already undergone. The Rigorous Imprisonment for a period of two

years awarded to the Appellants cannot be said to be excessive and I find no reason to modify the same.

11. Appeals are dismissed.

(MUKTA GUPTA)
JUDGE

May 30, 2013
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