

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Reserved on: 26th February, 2015
Judgment Pronounced on: 27th March, 2015

CRL.REV.P. 25/2007

MADHUR KISHORE BHATNAGAR

..... Petitioner

Through: Mr. B.P. Aggarwal & Ms. Shalini
Aggarwal, Advocates

versus

THE STATE THR. CBI

..... Respondent

Through: Mr. Narender Mann, Spl. PP for
CBI with Ms. Utkarsha Kohli, Adv.

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

P.S.TEJI, J.

1. Aggrieved by the judgment of conviction dated 18.03.2005 and order on sentence dated 22.03.2005 passed by the learned Additional Chief Metropolitan Magistrate, awarding the sentence to the petitioner to undergo simple imprisonment for a period of one year and fine of Rs.3,000/- for offence under Section 193 IPC, in default of payment of fine to further undergo simple imprisonment for one month; to undergo simple imprisonment for a period of one year and fine of Rs.3,000/- under Section 469 IPC, in default of

payment of fine to further undergo simple imprisonment for one month; to undergo simple imprisonment for a period of two years and fine of Rs.3,000/- under Section 471 IPC, in default of payment of fine to further undergo simple imprisonment for one month; to undergo simple imprisonment for a period of one month and fine of Rs.1,000/- under Section 417 read with 511 IPC, in default of payment of fine to further undergo simple imprisonment for one month and upholding the judgment of conviction and sentence by the learned Additional Sessions Judge vide judgment dated 04.01.2007, the present revision petition has been filed by the petitioner.

2. Factual matrix, as emerges from the record, is that the CBI filed a charge sheet against the petitioner. It was alleged that one D.K. Jain had written a letter dated 12.07.1985 to the President of India enclosing therewith a forged letter dated 02.07.1985 purported to be issued by Sh. Rajiv Gandhi, the then Prime Minister of India regarding demand of Rs.80 lacs by Sh. Gandhi from one D.K. Jain, posted as Inspector, State Bank of India, Janpad Vaishali, Bihar. Mr. Jain was asked to inform Sh. Gandhi as to when there would be a huge sum of money in the bank so that the money would be looted. The Editor of Hindustan Group of Papers also received copies of such letters and he forwarded the same to Sh. Rajiv Gandhi for inquiry. Investigation was conducted by CBI during which it revealed that the petitioner was an agent of Janta Deposit Scheme of State Bank of India, Muradabad, U.P. Sh. D.K. Jain was

Inspector at Main Branch and he had made a complaint against the petitioner due to which agency of the petitioner was terminated. It was revealed that the petitioner forged the abovesaid letters to settle score with Sh. D.K. Jain. The petitioner was arrested and recoveries were made from his house.

3. On completion of investigation, charge-sheet was filed against the petitioner. Charges under Section 193 read with 192 IPC, 511 read with 417 IPC and 471 read with 469 IPC were framed against the petitioner. The petitioner pleaded not guilty to the charges framed.
4. To prove its case, CBI examined 22 witnesses. After conclusion of prosecution evidence, the statement of the petitioner was recorded under Section 313 Cr.P.C. in which he had claimed innocence. The petitioner opted to lead defence evidence, but he did not adduce any defence evidence. The learned Additional Chief Metropolitan Magistrate vide judgment dated 18.03.2005 held the petitioner guilty for the offence punishable under Section 193/469/471 IPC and under Section 417 read with 511 IPC and convicted him for the said offences. The order on sentence was passed on 22.03.2005.
5. Thereafter, the petitioner filed criminal appeal bearing Criminal Appeal No.24/2005. The learned Additional Sessions Judge vide judgment dated 04.01.2007 upheld the conviction and sentence awarded to the petitioner.
6. Feeling aggrieved by the same, the petitioner has preferred the present revision petition to set aside the judgments rendered by the

Courts below and claiming acquittal.

7. I have gone through the ratio of judgment in case of ***Ram Briksh Singh and Others vs. Ambika Yadav and Another (2004) 7 SCC 665*** in which it was observed that the revisional court does not function as a court of appeal and, therefore, cannot re-appreciate the evidence. Sections 397 to 401 of the Code are group of sections conferring higher and superior courts a sort of supervisory jurisdiction. These powers are required to be exercised sparingly. The jurisdiction can be invoked to correct the wrong appreciation of evidence. Though the High Court is not required to act as a court of appeal but at the same time, it is the duty of the court to correct manifest illegality resulting in gross miscarriage of justice. The High Court is not required to interfere in the concurrent finding of facts. *This Court is of the considered opinion that the present case is not a fit case where the revisional jurisdiction is required to be exercised on the concurrent finding of facts recorded by the Courts below.*
8. Learned counsel for the petitioner has confined his arguments on the quantum of sentence only. It has been submitted that the FIR of the case was registered on 04.11.1985. The petitioner has faced the trial for about 30 years and remained behind the bar for about five months. He further submitted that a lenient view may be taken while awarding sentence to the petitioner.
9. In the present case, it is apparent from the record that FIR was

registered on 04.11.1985; charge sheet was filed on 15.02.1988; judgment of conviction was passed on 18.03.2005; order on sentence was passed on 22.03.2005; criminal appeal filed by the petitioner was dismissed on 04.01.2007 and now we are in the year 2015. The petitioner has already faced the proceedings for about 30 years and remained behind the bar for about five months.

10. In view of discussion made above, the judgments passed by the Courts below are upheld. However, this Court is of the considered opinion that it would not serve any purpose to send the petitioner behind the bar. Accordingly, the sentence of imprisonment is modified to the period already undergone by the petitioner, subject to payment of fine from Rs.10,000/- to Rs.25,000/-, in default the petitioner shall undergo simple imprisonment for four months and the adjustment of fine already paid.
11. The petitioner shall appear before the Chief Metropolitan Magistrate (New Delhi) within the period of one month from the date of order to pay the fine, failing to which surrender to serve the sentence in default of payment of fine.
12. The present revision petition is disposed of accordingly. File of the trial Court be sent back.

P.S.TEJI, J.

March 27, 2015
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