IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. A-1193-MA of 2014
Date of Decision : November 16, 2017

Union Territory of Chandigarh
....Applicant

VERSUS

Ashwani Kumar and others
.....Respondents

CORAM : HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present : Mr. Amarjit Singh Virk, Additional Public Prosecutor for U.T., Chandigarh.

T.P.S. MANN, J.

The Union Territory of Chandigarh has filed the present application under Section 378(3) of the Code of Criminal Procedure, 1973 for the grant of leave to appeal against the judgment dated 31.10.2013 passed by the Judge, Special Court, Chandigarh in Sessions Case No.3/2002 arising out of FIR No.3 dated 20.8.1996 under Sections 420, 467, 468, 471, 120-B IPC and Sections 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988, Police Station Vigilance, Chandigarh.

The prosecution has alleged that registration files of three vehicles, i.e., CH-01-Q-4859, CH-01-Q-4862 and CH-01-Q-4881, and road tax vouchers were forged and no road tax was in fact deposited.

According to the prosecution, Gurmukh Singh accused was the Registering Clerk at the relevant time. However, it was his stand that he was posted as Registering Clerk on 14.8.1996 and did not deal with the files and the challan. The prosecution has not brought on record his posting order. PW17 DSP P.M. Walia had moved application to the Deputy Commissioner, Estate Office, Chandigarh for securing the posting order but such an order is not on the file. The Registering Authority, who purportedly issued the registration certificates without deposit of road tax in the SBI Treasury Branch has not been impleaded as an accused. The registration certificate of the vehicles mentioned in the challan were not taken into possession by the Investigating Officer for the purposes of comparing the signatures thereon with the specimen signatures of Gurmukh Singh accused. On the other hand, the files relating to challan were dealt with by Gurmukh Singh accused to the extent of writing the numbers of the vehicles on the file covers and also raising of objection as to tax passing. The report of the Handwriting Expert would show that the writing made on the tax passing and on the sale letter conforms with that of the specimen signatures of Gurmukh Singh accused. Those writings contained the objections raised by him. However, it does not show that he had forged the tax vouchers or misappropriated the amount of road tax. Even otherwise, the relevant files of the three vehicles in question were taken into possession by PW12 Rajinder Singh. However, his examination-in-chief was not recorded, instead he was only tendered for cross-examination. Parvinder and Jagpal Ram, who were the witnesses of the recovery memo have not been examined.

According to the prosecution, Ashwani Kumar, Sanjay Kumar, Jagdish Chand and Bhim Sain used to operate as illegal agents, who dishonestly induced the owners of the vehicles to deliver to them the road tax fee alongwith commission for issuance of registration certificates. Presence of Santosh Sood, owner of one of the three vehicles could not be secured during the trial. Gurdial Singh, owner of the second vehicle, while deposing before the trial Court as PW20, did not point accusing finger towards anyone. According to him he had purchased the car but did not take its delivery. Rather, he sold it to a dealer. He further stated that he never got the car registered with the Registering Authority nor he could remember whether he signed any paper or not. The owner of the third vehicle, namely, Sanjeev Kumar Gupta also did not support the prosecution case. According to him, he had purchased the car from PASCO Automobiles and at that time his signatures were obtained on papers. He went on to state that Yash Pal Gupta of Chandigarh Car Bazar received the car from PASCO itself. No specimen signatures/writings of Ashwani Kumar, Jagdish Chand or Bhim Sain were obtained to connect them with the registration files of the vehicles in question. Thus, there is no evidence available on the record to prove their involvement in the offence.

Rakesh Kumar accused was said to have forged the certificate dated 27.11.1996 by filling the blanks in the certificate in his own hand and it was got issued dishonestly by practicing deception on R.G. Bhatia. Questioned writing on the various documents did match with the specimen writing but the report of the Handwriting Expert is of no use as the original certificate was never sent for comparison. Rather, its photocopy was supplied to the expert for comparison.

In view of the above, no fault can be found with the approach of the learned trial Court in acquitting the accused/respondents of the charges against them.

The application is without any merit and, therefore, dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

November 16, 2017 **(MAHABIR SINGH SINDHU)**
satish **JUDGE**

Whether speaking/reasoned : YES / NO

Whether reportable : YES / NO