IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. A-737-MA of 2014
Date of Decision : November 16, 2017

Union Territory of Chandigarh

....Applicant

VERSUS

Gurmukh Singh and another

.....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.

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.4/2002 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.

According to the prosecution, in the registration files of three vehicles, i.e. CH-01-Q-4927, CH-01-Q-4982 and CH-01-Q-5043, the road tax was not deposited in the treasury and in conspiracy and collusion with respondent No.1-Gurmukh Singh, respondent No.2-Jagdish Chand got allotted registration numbers and registration certificates issued.

After going through the impugned judgment, this Court finds that the registration certificates of the aforementioned vehicles were not taken into possession by the Investigating Officer for comparison of signatures on the registration certificates with the specimen signatures of Gurmukh Singh. There is no evidence as to who was the Registering Authority at the relevant time. The sale certificates of the vehicles do not bear signatures of Gurmukh Singh. Even if it was Gurmukh Singh, who had written the vehicle numbers on the sale certificates, still the prosecution was required to prove that registration certificates were issued illegally and without payment of road tax. Thus, it is difficult to hold that it was Gurmukh Singh who abused his position as a public servant and got the registration certificates issued from Registering Authority without deposit of road tax. PW4 Natha Singh, who had pointed out the deficiency in the files deposed that Form 20 did not bear anyone's signatures nor the file was dealt with after assigning of number. He admitted that registration certificates were issued but he could not state if road tax in respect of the vehicles were lying deposited in SBI Treasury Branch, Chandigarh. Moreover, PW4 Natha Singh, who was previously Branch Incharge was initially joined as an accused and, later on, got discharged. There were serious allegations of irregularities levelled against him. Under these circumstances, possibility of making Gurmukh Singh a scapegoat to cover the misdeeds of Natha Singh could not be ruled out. At the same time, there is no sufficient evidence that Gurmukh Singh in conspiracy with unauthorised agents, forged the road tax and issued registration certificates for the purpose of cheating and using as genuine the forged road tax vouchers.

Jagdish Chand accused was said to have dishonestly induced the owners of the vehicles to deliver him road tax fee alongwith commission for issuance of registration certificates; forged the road tax vouchers in connivance with Gurmukh Singh accused; and used the forged documents as genuine. Inderjit Singh, owner of vehicle No.CH-01-Q-4927 was not joined in the investigation and, thus, it cannot be said that he was cheated by Jagdish Chand. Satpal Verma, owner of vehicle No.CH-01-Q-4982 also could not be traced during investigation. PW14 Harbhajan Singh, owner of car No.CH-01-Q-5043 testified that he never gave any money to anyone for depositing the road tax. PW20 Basdev Sharma, owner of car No.CH-01-Q-4982 deposed that papers were kept by Jagdish accused and he paid Rs.2,700/- for preparation of registration certificate and payment of one time road tax. He also deposed that Jagdish told him to come after one month for receiving the registration certificate but he did not get the registration certificate for a long time. In December, 1996, Jagdish gave him the photocopy of receipt of Rs.1,900/- Jagdish accused has brought on record Ex.DW2/A, attested copy of entry No.2594 regarding deposit of Rs.1,900/- in the name of Satpal Verma. The original registration certificate was not taken into possession by the police. Payment of road tax on 12.7.1996 being established, it cannot be held that the road tax was paid subsequently. In view of the same, even the case against Jagdish accused falls to the ground.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal.

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