

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.916 of 2001

Judgment Reserved on : 4.12.2017

Judgment Delivered on : 13.2.2018

The State of Chhattisgarh

---- Appellant

versus

Shankar Prasad Mishra, aged about 32 years, S/o Ramnarayan Mishra, R/o Lal Bagicha Ward, Dhamtari, District Dhamtari, Chhattisgarh

--- Respondent

For Appellant/State : Shri Neeraj Mehta, Panel Lawyer
For Respondent : Shri Sanjay Agrawal, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

C.A.V. JUDGMENT

1. This appeal preferred by the State/Appellant is directed against the judgment dated 22.2.2001 passed in Criminal Case No.374 of 1999 by the Judicial Magistrate First Class, Dhamtari whereby the Respondent has been acquitted of the charges framed under Sections 420, 467, 468, 471 of the Indian Penal Code (henceforth 'IPC').
2. Facts of the case, in brief, are that Complainant Pravin Nathan (PW2) had received a notice from State Bank of India, Branch Dhamtari on 28.10.1993 from which he came to know that in his name somebody had taken a loan of Rs.5,000/- from the State Bank of India, Branch Dhamtari. He went to the concerned Branch of State Bank of India where he came to know that photograph of Respondent Shankar was affixed on the loan papers. He also

came to know that it was the Respondent who had obtained the said loan in his name. A written report (Ex.P1) was lodged by Complainant Pravin Nathan on the basis of which First Information Report (Ex.P2) was registered. During investigation, loan papers were seized from the Bank. Specimen signatures of the Respondent/accused were obtained and sent for examination of handwriting expert. But, no report thereof is on record. On completion of the investigation, a charge-sheet was filed against the Respondent for offence punishable under Sections 420, 467, 468 and 471 IPC. Charges were framed against him under Sections 420, 467, 468 and 471 IPC.

3. To rope in the Respondent/accused, the prosecution examined as many as 8 witnesses. Statement of the Respondent was also recorded under Section 313 of the Code of Criminal Procedure (henceforth 'CrPC') in which he denied the circumstances appearing against him, pleaded innocence and false implication. No witness has been examined in his defence.
4. After Trial, the Trial Court acquitted the Respondent as mentioned in the first paragraph of this judgment. Hence, this appeal.
5. Learned Counsel appearing for the Appellant/State argued that the Trial Court failed to appreciate the evidence on record in proper and correct perspective. The prosecution has proved its case beyond doubt and has proved the guilt of the accused/Respondent. The Trial Court failed to appreciate the statements of Pravin Nathan (PW2) and C.P. Shukla (PW1) in correct perspective. Under the facts and circumstances of the case, the Trial Court ought to have held the Respondent guilty for the charges levelled against him.

6. On the contrary, Learned Counsel appearing for the Respondent supported the impugned judgment of acquittal.
7. I have heard Learned Counsel appearing for the parties and perused the material available on record minutely.
8. Complainant Pravin Nathan (PW2) has stated in his Court statement that when he received a notice from State Bank of India, Dhamtari Branch he came to know that somebody had taken loan in his name. He went to the Bank and inquired about the matter. He came to know that his photograph was not affixed on the loan papers. He submitted a written report (Ex.P1) in Police Station Dhamtari. He has categorically stated in paragraph 2 of his cross-examination that the Bank officials had informed him that the photo affixed on the loan papers was of Respondent Shankar, therefore, he had mentioned the name of Shankar in his written report (Ex.P1).
9. Sub-Divisional Officer of Police C.P. Shukla (PW1) has supported the above statement and has stated that on the basis of the written report (Ex.P1), he lodged the FIR (Ex.P2).
10. Gopal Rai (PW4) is the witness before whom Ration Card was seized vide Ex.P5. Bank Manager Janak Rai (PW5) has stated that a loan of Rs.5,000/- was sanctioned by the then Branch Manager M. Padnabhan in the year 1990. Nothing else has been stated by him. Devesh Soni (PW6) is the witness before whom letter pad of the Bank was seized vide Ex.P4. Manish Nathan (PW7) is the witness before whom notice (Ex.P7), which was sent by the Bank to Complainant Pravin Nathan, was seized vide Ex.P3. Pradeep Banerjee (PW8), who was a Field Officer of the State

Bank of India, has stated that during investigation the police had seized Ledger Sheet (Ex.P8) and Information Sheet (Ex.P9) which related to loan account No.20/35. He has further stated that self application form (Ex.P10), Composite Roll (Ex.P11), Stamp Paper (Ex.P12), loan application form (Ex.P13) and other related documents were seized from him. He has further stated that loan was granted in the year 1990 and he did not know that who was the person who signed these documents.

11. Apart from the above, no further evidence is adduced by the prosecution. The Investigating Officer has also not been examined by the prosecution. As per the prosecution story, during investigation, specimen signatures of the Respondent had been obtained and sent for examination of the handwriting expert, but no report of handwriting expert has been submitted or proved by the prosecution. Since there is nothing on record to establish that the loan of Rs.5,000/- was obtained by the Respondent from the Bank in the name of Complainant Pravin Nathan (PW2), the Respondent cannot be held guilty. The finding of the Trial Court is, therefore, just and proper and the same does not warrant any interference.
12. Resultantly, the appeal preferred by the State is dismissed. The impugned judgment of acquittal is affirmed.
13. Record of the Court below be sent back along with a copy of this judgment forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
JUDGE