

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 440 of 2012

Subhash, Aged about 32 years, S/o. Shivratan Mukhia Mallah,
R/o. Village Ninvalia, Police Station and District Betia (Bihar).

---- Appellant

Versus

State of Chhattisgarh, Through Police Station Mohan Nagar,
Durg, District Durg (C.G.)

---- Respondent

For Appellant : Mr. B.L. Dembra, Advocate
For Respondent : Mr. Himanshu Sharma, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

29. 04. 2019

Challenge in this appeal is to the judgment of conviction and order of sentence dated 16.03.2012 passed by the 4th Additional Sessions Judge, Durg District Durg (C.G.), in Sessions Trial No. 22 of 2012, whereby the learned Additional Sessions judge, convicted the appellant for the offence punishable under Section 489(C) IPC and sentenced him to undergo rigorous imprisonment for 5 years and to pay fine of Rs. 2000/- with default stipulation.

2. Facts of the case in short, are that on 08.02.2011 Town Inspector Aditya Sharma (PW-1) received a secret information from the informer to the effect that some passengers were travelling in Sarnath Express with forged/counterfeit currency notes and were trying to use as genuine ones. Thereafter, he recorded this information in Rojnamcha Sanha Ex.P-4(C) and after recording the statements of the witnesses, he reached the spot and searched the appellant. On being searched, he found 84 fake currency notes of ₹ 500/- denomination from his underwear and one mobile phone of Micromax company and thereafter he prepared search panchanama (Ex.P-2) and made seizure of fake currency notes under (Ex.P-3). The appellant was arrested vide Ex.P-6. Seized currency notes were kept under the seal and signature of PW-1. After registration of FIR (Ex.P-5), seized currency notes was sent for examination to the Bank Note Press Deras (M.P.) vide Ex.P-7 and thereafter the reports of expert was received under Ex.P-8 according to which the notes seized from the appellant were fake.

3. After due investigation, charge-sheet was filed in the Court of JMFC, Durg, who, in turn, committed the case for trial to the Court of Additional Sessions Judge, Durg who convicted and sentenced the appellant under Section 489 (C) IPC.

4. To prove the prosecution case, T.I. Aditya Sharma (PW-1), Gendlal (PW-2) and Bholanath Sahu were examined and

statement of the appellant was recorded under Section 313 Code of Criminal Procedure.

5. Counsel for the appellant/accused would argue that thought the seizure witnesses namely Gendlal (PW-2) and Bholanath (PW-3) have not supported the case of the prosecution and turned hostile, yet the Court below has recorded an erroneous finding to the effect that the fake currency notes were seized from the possession of the appellant which is not sustainable in law. His next submission is that there are major contradictions and omissions in the statements of the prosecution witnesses and therefore, benefit of doubt should have been given to the appellant.

6. State counsel however supports the judgment impugned and submits that the findings recorded by the Court below convicting and sentencing the accused/appellant as mentioned above are based on the proper appreciation of the evidence on record and, therefore, no illegality or infirmity is traceable in the same worth interference in this appeal.

7. It is not in dispute that 84 fake currency notes of ₹ 500/- denomination were found in the possession the appellant. Learned counsel for the appellant would submit that seizure witnesses PW-2 and PW-3 have not supported the case of the prosecution and have turned hostile.

8. From the evidence of the witnesses, it remains undisputed that on the date of incident 84 currency notes of Rs. 500/-

denomination were seized from the underwear of the appellant. Though, the seizure witnesses have not supported the seizure as a whole, they have admitted their signature on the seizure memo Ex.P-6. This apart, PW-1 who had affected the seizure from the accused/appellant which on examination were found to be fake currency notes vide Ex.P-8, has supported the case of the prosecution. Furthermore, the accused/appellant has not been in a position to disown his possession over the said currency notes by leading any reliable evidence. Possession of counterfeit currency notes is a crime not only against the Society, but also against the nation. It is a serious offence, as it would imbalance the financial stability of the country. Possession of large number of counterfeit currency notes itself justifies the drawing of presumption that the accused person is in possession of counterfeit currency notes. It is not the case of the defence that the accused/appellant had any previous animosity with the PW-1 who affected the seizure from the appellant and therefore, the possibility of his false implication in the case in hand is completely ruled out. The case relied upon by the counsel for the appellant (**AIR 2002 SC 2540**) being on different footing, is not relevant to the disposal of the present case. Thus, the evidence collected by the prosecution goes to show that the allegation made against the appellant that he was in possession of the counterfeit currency notes and being so the findings recorded by the learned Court below holding the appellant guilty under

Section 489(C) IPC does not appear to suffer from any illegality or infirmity. It is hereby maintained as such.

9. In aforesaid view of the mater the appeal is held to be without any substance and is hereby dismissed as such.

Sd/-
(Vimla Singh Kapoor)
Judge

Santosh