

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 277 OF 2012

Vikramprasad Harishankarprasad Singh .Appellant
Age : 20 yrs, Occu : Student
R/at Gulve Vasti, Hiranman Landge Chawl,
Bhosari, Pune.

(Now in Yerawada Central Jail, Pune)

Vs.

The State of Maharashtra .Respondent
Through Bhosari Police Station,
Pune.

Mr. Aditya Sawant, Appointed Advocate, for the Appellant
Mr. P. H. Gaikwad, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 11.04.2019

ORAL JUDGMENT

. By this Appeal, the Appellant has impugned the Judgment and Order dated 01.12.2011 passed by the learned Sessions Judge, Pune in Sessions Case No. 326 of 2011, convicting and sentencing him as under :-

- for the offence punishable under Section 489B r/w 34 of the Indian Penal Code, to suffer R. I. for seven years and to pay fine of Rs. 5000/-, in default to undergo S. I. for one year;

- for the offence punishable under Section 489C r/w 34 of the Indian Penal Code, to suffer R. I. for five years and to pay fine of Rs. 2,500/-, in default to undergo S. I. for six months.

The said sentences were directed to run concurrently.

2. At the outset, it may be noted that as none appeared for the Appellant, Mr. Aditya Sawant, Advocate was appointed as amicus curiae to espouse the cause of the Appellant on 05.04.2019.

3. The prosecution case in brief is as under :-

According to the prosecution, the Appellant and co-accused – Rohitkumar Pande (absconding) had fake currency

notes of Rs. 1,000/- denomination, which was being used by them, to purchase small articles. It is the prosecution case, that on 25.01.2011, the Appellant visited the shops of PW.1 (Shaitansingh Chudawat), PW.2 (Sharavnsing Bhati) and PW.3 (Fojaram Gahalot) and gave Rs. 1,000/- denomination to each of them and purchased some articles costing less than Rs. 100/-. When PW.3 (Fojaram Gahalot) was handed over a currency note of Rs. 1,000/- denomination, he suspected that it was a fake currency note and informed the Appellant. The Appellant left the shop, however, was accosted by PW.1(Shaitansingh Chudawat). PW.1 (Shaitansingh Chudawat), informed the Bhosari Police Station, who came to the spot, and thereafter, PW.1 lodged a complaint with the Bhosari Police Station, Pune, alleging offences punishable under Sections 489B, 489C r/w 34 of the Indian Penal Code. The Appellant was arrested, however, co-accused – Rohitkumar could not be traced. In the personal search of the Appellant, a currency note of Rs. 1,000/- denomination was found. After investigation, charge-sheet was filed as against the Appellant in the Court of the learned J.M.F.C., Pimpri. Since the offences alleged were exclusively triable by the Court of Sessions,

the case was committed to the Sessions Court for trial.

4. The learned Sessions Judge framed charge as against the Appellant to which the Appellant pleaded not guilty and claimed to be tried.

5. The prosecution in support of its case examined six witnesses; PW.1 – Shaitansingh Chudawat (Complainant); PW.2 - Sharavnsing Bhati and PW.3 – Fojaram Gahalot (the persons to whom the Appellant handed over Rs. 1,000/- denomination note); PW.4 – Ravindranath Jadhav, Assistant Works Manager at Currency Note Press, Nasik Road, to prove that the notes that were seized were counterfeit notes; PW.5 – Babusing Bhadi, panch witness to the seizure of all four counterfeit notes as well as to the two purchased articles; and PW.6 – Prabhakar Pawar, API, the investigating officer.

6. The defence of the Appellant was that of total denial and false implication. According to the Appellant, it was a case of mistaken identity. According to the Appellant, PW.1 had falsely

apprehended him on the basis of mistaken identity.

7. The learned Sessions Judge after considering the evidence on record convicted and sentenced the Appellant as mentioned in para 1.

8. Heard learned counsel for the parties at length. Perused the evidence and documents on record with their assistance.

9. The three material witnesses examined by the prosecution to show that the Appellant had given Rs. 1,000/- denomination note (counterfeit) to them are; PW.1 (Shaitansingh Chudawat), PW.2 (Sharavnsing Bhati) & PW.3 (Fojaram Gahalot). It appears from the evidence of the said witnesses, that the Appellant first went to the shop of PW.2 – Sharavnsing Bhati for purchasing items of less value; that after purchasing articles from PW.2 (Sharavnsing Bhati) at 6.30 p. m., the Appellant proceeded to the shop of PW.3 (Fojaram Gahalot) at 7.00 p. m., from where he again purchased sundry articles,

after giving a fake Rs. 1,000/- note. From PW.3's (Fojaram Gahalot's) shop, the Appellant went to PW.1 (Shaitansingh Chudawat's) shop at 7.30 p.m., to purchase items. When PW.1 (Shaitansingh Chudawat) was handed over a currency note of Rs. 1,000/- denomination, he suspected the said note was a duplicate note and hence, questioned the Appellant, resulting in a quarrel between the two. The Appellant had gone to PW.1 (Shaitansingh Chudawat's) shop for purchasing one Pears soap and one bottle of Jasmine Oil costing Rs. 66/- and for which he had handed over Rs. 1,000/- to PW.1 (Shaitansingh Chudawat). When the Appellant realized that PW.1 (Shaitansingh Chudawat) suspected that the currency note was fake, he started running, pursuant to which, PW.1 (Shaitansingh Chudawat) chased the Appellant and with the help of other persons, apprehended him. Accordingly, PW.1 (Shaitansingh Chudawat) informed the Bhosari Police Station, on telephone about the same. The police from the Bhosari Police Station reached the spot and questioned the Appellant, who disclosed his name and address. Just then to PW.2 (Sharavnsing Bhati) and PW.3 (Fojaram Gahalot) on learning of the said incident also came to the spot

and disclosed that the Appellant had also given fake currency note of Rs. 1,000/- denomination to them for purchasing small items. The police took the said currency notes from their possession. One Rs. 1,000/- note was also found on the person of the Appellant. PW.1 (Shaitansingh Chudawat), PW.2 (Sharavnsing Bhati) & PW.3 (Fojaram Gahalot) have identified the Appellant. The evidence of the three witnesses i. e. PW.1 to PW.3 is consistent and corroborates each other. The other accused with the Appellant escaped from the spot. There is nothing on record to show that why the said witnesses would falsely implicate the Appellant, who was admittedly not known to either of them. PW.5 (Babusing Bhadi) and PW.6 (Prabhakar Pawar) have corroborated the evidence of PW.1 to PW.3, with respect to seizure of the notes. PW.4 – Ravindranath Jadhav, Assistant Works Manager at Currency Note Press, Nasik Road has given his report dated 23.03.2011 stating that the currency notes which were seized from the Appellant and sent to the Currency Note Press for examination were counterfeit notes.

10. The evidence on record clearly shows the Appellant's complicity in the crime. No infirmity can be found in the impugned Judgment and Order. Hence, the Appeal is, accordingly, dismissed.

11. I would like to record a word of appreciation for the able assistance provided and the efforts taken by Mr. Aditya Sawant, as an appointed advocate, in conducting the appeal. High Court Legal Services Committee to award fees of the learned Appointed Advocate, as per Rules.

(REVATI MOHITE DERE, J.)