

29.07. 2022
item No.72
n.b.
ct. no. 34

CRA 119 of 2018

**Kanchan Srivastav
Vs.
The State of West Bengal**

Mr. Sabir Ahmed,
Mr. Mujibar Ali Naskar,
Mr. Apan Saha,
Mr. S. Sarkar

.....For the Appellant.

Mr. Anwar Hossain,
Ms. Sreyashee Biswas,

....For the State.

Mr. Ahmed, learned advocate appearing on behalf of the appellant challenges the order of conviction and sentence dated 30.1.2018 and 31.1.2018 passed by the Learned Additional Sessions Judge, Fast Track, 2nd Court, Malda in connection with Sessions Case No.09 of 2017 arising out of the Baishnabnagar Police Station Case No.735 of 2016 dated 8.9.2016, wherein the appellant was convicted under Section 489(C) of the IPC and sentenced to suffer rigorous imprisonment for five years and pay fine of Rs.2,000/- in default rigorous imprisonment for six months.

The subject matter of the case relates to 600 pieces of Fake Indian Currency notes of Rs.500/- denomination being seized from the appellant. Initially the case was registered under Sections 489B/489C and Section 120B of the IPC and the Investigating Agency upon completion of investigation

submitted charge-sheet under the same sections. Learned Trial Court was pleased to frame charges under Section 489B and 489C of the IPC against the sole accused being the appellant. The prosecution in order to prove its case relied upon eight witnesses being P.W. 1, SI Kajal Kuamr Das; P.W. 2- ASI, Mrinal Kanti Mallik; PW 3, ASI Nurshed Ali; PW 4 ASI Rejaul Karim; P.W. 5- Constable Subir Goon; P.W. 6- A.S.I. Debdulal Sarkar; S.I. P.W.7-Bhaskar Parihal; P.W. 8 Lady Constable Ananya Dutta Chowdhury.

Mr. Ahmed, learned advocate appearing for the appellant challenges the order of conviction and sentence so imposed by the learned Trial Court and submits that none of the independent witnesses in the seizure list whose names were appearing in the seizure list confirmed the factum of seizure, as one of them did not support the prosecution case and the other witnesses was withheld by the prosecution.

Learned advocate also submits that there was a specific plea taken up by the appellant during the examination under Section 313 of the Code of Criminal Procedure, but the Learned Trial Court ignored the issue raised by the appellant on both points and erroneously held her guilty of the offence..

Mr. Anwar Hossain, learned advocate for the State on the other hand supports the judgment delivered by the Learned Trial Court. Additionally he submitted that the search and seizure and the report of the expert proves that the currency which were recovered from the possession of the appellant were fake and as such, there cannot be any

interference in respect of the judgment delivered by the Learned Trial Court.

I have considered the evidence adduced by the prosecution, and the consistency in their evidence so far as the search and seizure is concerned in respect of the recovery of the fake currency notes.

The evidence of P.W. 3 namely, Nurshed Ali who was declared as hostile do not seem to be of much assistance, in view of the fact that, there are trappings of the witness being won over. I also do not find that the evidence of seizures were deviated from the version in examination-in-chief and cross-examination of the prosecution witnesses in respect of the six hundred fake Indian Currency Notes. Needless to state that the seizure of currency notes from the person concerned, the opinion of the expert as also the evidence of the attending witnesses do confirm the charges which were brought against the accused in respect of the possession of the counterfeit currencies.

Learned Trial Court, in fact, has acquitted the present appellant from the charges under Section 489B of the Indian Penal Code and, as such, the same do not call for any interference. So far as the finding of the Learned Trial Court in respect of the charges under Section 489C of the IPC is concerned I am unable to differ with the same and as such, the order of conviction passed by the Learned Trial Court is hereby affirmed.

However, having regard to the fact that the appellant happens to be a lady and during the pendency of the trial as also the appeal she was in jail custody for a period of two years six months and more, I am of the considered view that the sentence so imposed be reduced to that which has already been undergone by the appellant during the trial and pendency of the appeal.

However, the fine imposed is enhanced to a sum of Rs.20,000/- which shall be deposited by 15th September, 2022, in default, the appellant would serve rest of the sentence as imposed by the Learned Trial Court.

Accordingly, CRA 119 of 2018 is partly allowed.

Pending applications, if any, are hereby disposed of.

Department is directed to inform the Learned Trial Court regarding the directions/orders/judgment delivered by this Court.

Lower Court Records be sent to the respective Jurisdictional Court within a fortnight.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)