

IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Ajay Kumar Gupta

C.R.A. 144 of 2016

Turakka Nagaraju @ Turaka Nagaraju
-Vs-
The State of West Bengal

For the Appellant : Mr. Dipanjan Chatterjee, Adv.
Mr. Avinaba Patra, Adv.
Mr. Dipayan Kundu, Adv.

For the State : Ms. Sreyashee Biswas, Adv.

Heard on : 13.02.2023

Judgment on : 13.02.2023

Joymalya Bagchi, J. :-

1. Appeal is directed against judgment and order dated 22.12.2015 passed by learned Additional District & Sessions Judge, 5th Court, Malda in Sessions Trial No.25 of 2015 arising out Sessions Case No. 137 of 2015 convicting the appellant for commission of offence punishable under Sections 489B/489C of the Indian Penal Code and sentencing him to suffer rigorous imprisonment for ten years and to pay a fine of Rs.10,000/-, in default, to suffer rigorous

imprisonment for one year more for the offence punishable under Section 489B of the Indian Penal Code and to suffer rigorous imprisonment for seven years and to pay a fine of Rs.10,000/-, in default, to suffer rigorous imprisonment for one year more for the offence punishable under Section 489C of the Indian Penal Code; both the sentences to run concurrently.

2. Gist of the prosecution case is to the effect that on receipt of telephonic information that a deal in fake Indian currency notes (FICNs) would take place at Alinagar Fatepur area, a G.D. being Kaliachak Police Station G.D. Entry No.1371 was recorded. Pursuant thereto, police personnel under the leadership of ASI Ram Chandra Saha (PW5) went to work out the information. They reached Alinagar Fatepur around 19:55 hrs. The source pointed out to the appellant who was waiting to board a public transport. Thereafter, the appellant was searched.
3. In course of search, 240 pieces of FICNs valued at Rs.1,20,000/- in all were recovered. Appellant was arrested. A written complaint was lodged by PW5 resulting in registration of Kaliachak Police Station Case No.699 of 2014 dated 29.09.2014 under Sections 489B/489C of the Indian Penal Code. Initially, charge-sheet was filed. Subsequently, upon receipt of report from the expert that the currency notes were fake, supplementary charge-sheet was filed. Charges were framed under Sections 489B/489C of the Indian Penal Code. Appellant pleaded not guilty and claimed to be tried.

4. In course of trial, prosecution examined 10 witnesses. Defence of the appellant was one of innocence and false implication. He took a desperate plea that he was a source attached to Interpol, Chennai and has been falsely implicated.
5. In conclusion of trial, learned trial Judge by the impugned judgment and order dated 22.12.2015 convicted and sentenced the appellant, as aforesaid.
6. Mr. Dipanjan Chatterjee, learned Advocate for the appellant assailed the conviction on the following grounds :- (a) recovery of the FICNs. has not been proved & (b) there is no evidence that the appellant used the currency notes.
7. Ms. Sreyashee Biswas, learned Advocate for the State submits that evidence of the official witnesses is corroborated by independent witnesses to recovery i.e. PW 7. Report of the expert (Ext.7) shows that the seized notes are fake. Hence, the prosecution case has been proved beyond doubt.
8. PW5 (ASI Ram Chandra Saha) is the leader of the raiding party. He deposed on receiving telephonic information he along with others came to the spot. Appellant was apprehended. On search, 240 pieces of currency notes of Rs.500/- each, suspected to be fake, were recovered. He proved the seizure list (Ext.1). He also identified the seized currency notes in Court. Appellant was arrested. PW 5 lodged written complaint at the police station.

9. His deposition is corroborated by PW1 (Ankan Singha Ray), PW2 (Hasibur Sk.), PW3 (Amjad Ali) & PW4 (Bikash Mahanta), who were members of the raiding party.
10. PW7 (Galam Rabbani) is an independent witness to the recovery of currency notes suspected to be fake. He proved his signature on the seizure list.
11. PW6 (ASI Manoranjan Murari) proved the G.D. Entry No.1371 dated 29.09.2014 with regard to the prior information giving rise to the raid.
12. PW9 (Abhisek Talukdar) is the police officer who received the written complaint. He proved the formal FIR.
13. PW10 (Shankar Sarkar) is the Investigating Officer. He received the seized notes and sent them for examination at Salboni. Initially, charge-sheet was filed. On receiving report from Salboni, supplementary charge-sheet was filed.
14. PW8 (Ashok Kumar Roy) brought the report from Salboni.
15. Evidence of the police officers i.e. PWs.1 to 5 with regard to recovery of 240 pieces of currency notes of Rs.500/- each, suspected to be fake, from the possession of the appellant is corroborated by independent witness i.e. PW7. The ocular evidence is supported by the contemporaneous seizure list which has been exhibited. Seized notes were also produced in court.
16. It is contended that the *malkhana* register has not been produced. Non-production of *malkhana* register does not affect the chain of

custody. Numbers of the seized notes are noted in the seizure list and tally with the currency notes produced in court. PW10 deposed that he received the seized notes and sent them for examination at Bharatiya Reserve Bank Note Mudran (P) Ltd. at Salboni. Report of the expert (Ext.7) shows that the seized notes are fake. Hence, possession of 240 pieces of FICNs. of Rs.500/- each, i.e. Rs.1,20,000/- in all, is proved.

17. Learned Advocate for the appellant strenuously argued that his client was unaware that the notes are fake.
18. I am unable to accede to such desperate argument. 240 pieces of fake Indian currency notes were recovered from the petitioner. The overwhelming volume of fake notes recovered from the petitioner gives rise to the irresistible inference that he was aware that the said notes were fake and was in conscious possession of the same.
19. It is also argued that the petitioner had not used the said notes. Charge under Section 489B IPC has been framed for '*trafficking*' and not '*user of the notes*'. Gist of the charge is to the effect that on 29.09.2014 at 19:55 hrs., the appellant had brought the counterfeit currency notes of Rs.1,20,000/- to use them in the open market as genuine.
20. Evidence on record shows the appellant is a resident of a different State. He was found in front of Reshmi hotel in an open market with fake currency notes valued at Rs.1,20,000/- in all. The

aforesaid evidence shows he was in the process of trafficking the currency notes when he was apprehended.

21. Plea of the appellant that he was an agent of Interpol, Chennai and has been falsely implicated by the State police is unfounded and a preposterous one. It was rightly turned down by the trial Court.
22. Hence, conviction and sentence of the appellant under sections 489B/489C IPC is upheld.
23. The appeal is accordingly, dismissed.
24. Period of detention suffered by the appellant during investigation, enquiry and trial shall be set off against the substantive sentence imposed upon him in terms of Section 428 of the Code of Criminal Procedure.
25. Lower court records along with a copy of this judgment be sent down at once to the learned trial Court for necessary action.
26. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

I agree.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)