

15.02.2023
Item No. 3
Ct. No. 236

CRA 447 of 2019
CRAN 2 of 2022

In the matter of: **Belu Sk.**

Mr. Nirmalendu Bera,
Mr. Gobinda Chandra Baidya,
Mr. Gora Chand Samanta,
Mr. Gobinda Baidya

... for the Appellant

Mr. Saswata Gopal Mukherjee, Id P.P.
Ms. Faria Hossain,
Mr. Anand Keshari

... for the State

This appeal challenges the judgement and order of conviction and sentence imposed upon the appellants for committing offence under Section 489B and 489C of the Indian Penal Code by learned Additional Sessions Judge, Kandi, Murshidabad in S.T. No. 08 (04)/2018/ G.R. No. 1714/2017 pronounced on 2nd July, 2019. By the impugned judgement learned Trial Court recorded an order of conviction and directed the convicts to undergo rigorous imprisonment for seven years for committing offence under Section 489B and 489C of the I.P.C. respectively and to pay a fine of Rs. 10,000/- each with default clause.

Briefly stated, P.S.I. Md. Firoj informed the Officer-in-charge of Burwan Police Station, Murshidabad in writing that on 17th September, 2017 he received an information from the Police Station at about 20.25 hours that two persons were coming from Labpur side District Birbhum riding black colour Honda Shine motorcycle having no registration number and they were carrying huge quantity of forged Indian currency notes down the Badsahi Road. He took steps

to work out the source information that was received by Burwan Police Station and he convinced two witnesses namely, Sahirul Sk. and Barjamal Khan to be with the police force to witness the incident. At about 21.05 hours he found a motorcycle with riders. Having found the police they tried to flee, but in vain. They were apprehended at Bahadupur More at Badsahi Road. The said police officer offered the accused persons to search him and, thereafter, the accused persons were searched in presence of those witnesses and 7 currency notes of Rs. 2000/- were recovered from the possession of accused Belu Sk. and 8 number of currency notes of Rs. 2000/- were recovered from the possession of Nur Islam @ Janata Sk. The accused persons disclosed their identity. Those currency notes total 15 in number were recovered from the possession of the accused persons were seized under proper seizure list. The motorcycle was also seized.

As the information disclosed offence cognizable in nature the Burwan P.S. Case No. 379 of 2017 dated 17th September, 2017 was registered. Police took up investigation which culminated into submission of charge sheet against the accused persons. The accused persons stood the trial by pleading their innocence. Prosecution examined as many as 7 witnesses. The witness no. 2 and 3 were the members of the public who did not support the prosecution case on the factum of seizure while they admitted their signature appearing on the seizure lists. Learned Counsel representing the appellants though argued that prosecution case should be disbelieved as the independent witnesses did not support the case of prosecution. Learned Trial Court depending upon the evidence of police personnel

recorded the order of conviction. But Mr. Bera could not make out a good reason to discard the testimony of police officer. He could not suggest as to why it should be disbelieved when it is argued by Ms. Faria Hossain, learned Counsel representing the State that prosecution witnesses cannot be disbelieved because of their profession.

Mr. Nirmalendu Bera, learned Senior Counsel for the appellants submits that the appellants have already undergone imprisonment for four and half years. The sentencing part of the impugned judgement may be interfered with and the appellants may be sentenced to suffer the period already undergone. Ms. Hossain, however, submits that in that event amount of fine may be enhanced.

Having heard the learned Counsel for the parties when it is found that the order of conviction is accepted by the appellants, I am inclined to maintain the same. The accused persons are sentenced to suffer imprisonment for the period already undergone and to pay fine of Rs. 25,000/- each instead of Rs. 10,000/-, to be deposited with SDLSC, Kandi, Murshidabad within four weeks from date, failing which they will have to serve out sentence for the remaining period as imposed by learned Trial Court.

Thus, the criminal appeal is disposed of. Application, if any, stands disposed of.

Let a copy of this order be sent down to learned Trial Court and Chairman, SDLSC, Kandi, Murshidabad for information and necessary action.

(Siddhartha Roy Chowdhury, J.)