

IN THE HIGH COURT AT CALCUTTA

(Criminal Appellate Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRA 707 of 2016

Amar Chakraborty

Vs

The State of West Bengal & Anr.

For the Amicus Curiae : Mr. Santanu Talukdar.

For the State : Mr. Bidyut Kr. Roy,
Ms. Rita Datta.

Hearing Concluded on : 17.11.2023

Judgment on : 20.11.2023

Shampa Dutt (Paul), J.:

1. THE APPEAL:-

The present appeal has been preferred against the judgment and order dated July 29, 2016 and July 30, 2016 passed by the learned Judicial Magistrate, (1st Class), 4th Court, Alipore, 24-Parganas (South), arising out of complaint case no. 7786 of 2012 under Sections 323/427/504/506 of the Indian Penal Code, thereby acquitting the accused person.

As there was no representation on behalf of the appellant (against acquittal), an Amicus Curiae was appointed.

The appeal was heard in presence of the State of West Bengal.

2. APPELLANT/COMPLAINANT'S CASE:-

The appellant's case is that a complaint case being C. Case No. 7786 of 2012 was filed by the appellant/complainant against the opposite party/accused on the basis of a power of Attorney granted by the father-in-law of the appellant namely Mr. Salil Kumar Mukherjee for the offences committed under Sections 323/427/504/506 of the Indian Penal Code.

The allegation in the petition of complaint was to the effect that the appellant is the power of attorney holder in respect of a property in which the accused is a tenant. It is alleged that the accused was

misusing the room by partying and disturbing all neighbours, who were complaining to the appellant. The accused was asked to vacate the property after the lapse of the tenancy agreement and also because he was allegedly a defaulter in payment of rent. On the date of incident when the appellant/complainant had gone to the premises, the accused who was holding a party, allegedly became angry and started abusing the appellant in filthy language and also assaulted him. The accused allegedly also damaged the premises for which the appellant sustained loss to the tune of Rs. 6 lakhs.

On completion of trial the learned Magistrate considering the materials on record was pleased to acquit the accused/opposite party no. 2 finding him not guilty of all the offences as alleged.

The appellant/complainant being aggrieved has appealed against the said order of acquittal, on being granted leave to appeal on 06.12.2016.

3. ANALYSIS:-

On perusal of the materials on record including the judgment of acquittal under appeal it appears that the appellant/complainant claims that he is the constituted power of attorney of the landlord (his father-in-law) in respect of the premises where the accused is a tenant.

Admittedly there is no dispute between the landlord and the accused. Though the appellant has claimed that he is the power of

attorney holder, the said document was not produced/proved before the Trial Court. The appellant/complainant also did not prove the written complaint in Court. The landlord/father-in-law/owner of the disputed premises has not been examined by the appellant/complainant before the Trial Court. The father-in-law being the landlord was an important witness who was not examined. No medical papers nor any witness was produced to substantiate the allegation that the complainant/appellant had been assaulted by the accused. Nor was any witness examined to substantiate the allegation that the complainant was abused by the accused in filthy language.

4. CONCLUSION:-

Considering the said materials on record and the discussion made above it appears that the appellant/complainant has not been able to prove any of the ingredients required to constitute the offences alleged against the accused.

Accordingly, the judgment and order dated July 29, 2016 and July 30, 2016 passed by the learned Judicial Magistrate, (1st Class), 4th Court, Alipore, 24-Parganas (South), arising out of complaint case no. 7786 of 2012 under Sections 323/427/504/506 of the Indian Penal Code, being in accordance with law requires no interference and is thus affirmed.

The Appeal being CRA 707 of 2016 stands dismissed.

Copy of this judgment be sent to the learned Trial Court for necessary compliance.

Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)