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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.L.P. 215/2017, CRL.M.A. 6077/2017**
THE STATE GOVT. OF NCT OF DELHIPetitioner
Through: Mr. Yudhvair Singh Chauhan, APP for
the State with SI Rahul, PS Adarsh
Nagar

versus

MOHD. MUMTAZ & ORS.Respondents

Through: M. Shuaeb Saifullah, Adv. (VC)

CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER
03.07.2024

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1. The present appeal is filed under Section 378 of CrPC against the judgment and order dated 08.10.2016 by Additional Sessions Judge, Fast Track Court, Rohini, Delhi whereby the respondents were acquitted in Sessions Case No.53301/2016 arising from F.I.R. No. 237/2002 under Sections 395/397/412/120-B IPC, P.S. Adarsh Nagar, Delhi, due to insufficient proof beyond reasonable doubt.
2. The briefly stated facts of the case are that on 18.06.2002, 6-7 armed individuals entered Vaish Co-operative Adarsh Bank, Azadpur, Delhi, and conducted a dacoity, injuring bank officials and looting approximately Rs. 4,42,000. The incident was reported at 3:20 p.m., and police officers promptly reached the site. Statements were recorded, and F.I.R. No. 237/2002 was registered. The accused were arrested, and cash and weapons were recovered. Additional F.I.R.s (Nos. 252/2002 and 253/2002) were also registered.
3. The accused were formally charged under Sections 395/397/412/120-



B IPC, to which they pleaded not guilty. The prosecution evidence included 48 witnesses who were examined, and numerous documents were exhibited. The accused denied all incriminating evidence and claimed false implication in the trial, after which defence witnesses were also examined. Vide the impugned order dated 08.10.2016, the learned Additional Sessions Judge acquitted the accused, stating the prosecution failed to prove the case beyond a reasonable doubt.

4. The learned counsel for the appellant submits that the trial court has ignored material evidence and legal precedents, resulting in a miscarriage of justice. It is submitted that in fact the prosecution had successfully proved the case beyond reasonable doubt. Further, it is submitted that there were errors in forensic analysis and witness identification which prejudiced the Court to draw adverse inferences.
5. Learned counsel has also submitted that PW1 and PW18 did identify the accused during the trial as the persons who entered the Bank with their associates and committed dacoity. It is also submitted that cash and bank slips have been recovered from the accused's possession which requires due consideration.
6. The learned counsel for the defendants have opposed the present appeal on the ground that the impugned order is a well-reasoned one and requires no interference as each aspect of trial has been addressed with due deliberation.
7. I have heard and considered the contentions of both parties. It is a well-settled principle that the Appellate jurisdiction conferred upon this court is a limited one. The court at this stage cannot hold a mini-trial and nor can it necessitate charges to be proved against the



accused. It has been held that at this stage, it is to be determined whether enough material is available on record to further proceed against the accused or not.

8. In order to assess whether the leave to appeal is to be granted, it becomes necessary to evaluate what has been held in the impugned order by the Ld. ASJ, which is as under:

“9.2 To sum-up, prosecution has not been able to prove its case to the hilt. The shaky identification, that too by only two bank officials, does not inspire much confidence. They identified few robbers whom they were in no position to identify at all. There is also a possibility that witnesses and accused were brought face-to-face before holding the judicial TIP. The remaining bank officials have not supported the prosecution case as they have failed to identify any of the accused.

8.4 The contradictions and omissions appearing on record are galore and create a doubt with respect to the alleged recovery. PW1 Sanjeev Bansal, who was the cashier of the bank, has not whispered even a single word regarding his own initials on the slips of such notes and has even gone to the extent of claiming that notes allegedly recovered from the accused were not those which had been looted from the bank.”

9. Upon a perusal of the impugned becomes evident that the learned ASJ has meticulously examined the evidence on record and the well-stated reasoning of the order suggests application of judicial mind. Thereby, I see no reason to interfere with the impugned order.
10. Accordingly, the leave to appeal is dismissed.

INESH KUMAR SHARMA, J

JULY 3, 2024

Pallavi/Aj



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