

C.R.A. 454 of 2001

Sri Bireswar Bera
Vs.
Atal Bera & Ors.

Mr. Golam Mastafa
Mr. Tarasankar Samanta ... for the appellant

(Dictated in open court)

1. The instant appeal is preferred by the complainant against the judgement passed by the learned Additional Chief Judicial Magistrate, Tamluk in connection with the Complaint Case No, 1431 (C) of 1987. By passing the impugned judgement the respondents (herein) were found not guilty of the charge punishable under Section 379 of the Indian Penal Code and they were acquitted under Section 248 (1) of Code of Criminal Procedure.
2. Being aggrieved by and dissatisfied with the said impugned judgement the present appeal is preferred at the behest of the complainant.
3. During pendency of the appeal respondent no(s) 1 i.e. Atal Chandra Bera and Respondent No.3 i.e. Krishna Bera were expired.
4. The instant complaint case was lodged by the complainant over the allegation of theft of paddy from his plot of land. It is alleged that the respondents committed theft of paddy grown on the land of the complainant which was valued of Rs.1,000/. The said incident took place on 30.11.1987 at 7:30 Hrs. and

the complainant reported said incident at local Police Station vide G.D. Entry No. 1254 dated 30.11.1987.

5. The defence was taken by the respondents that all the allegations as made in the complaint by the complainant is false and baseless and the complainant did not harvest any paddy on the land and so there was no question of committing theft of paddy.
6. Learned Trial Court took the evidences of the complainant and other witnesses who were cited on behalf of the complainant. Some documents were marked as exhibits on behalf of the complainant. Ultimately, the learned Trial Court disbelieved the case of the complainant, acquitted and discharged the respondents from the case.
7. The alleged incident took place on 30.11.1987 and the case was filed on 17.12.1987 causing delay. The complaint (Exhibit-1) is silent about such long delay. It is said that alleged incident was reported to the concerned P.S. but G.D. is not produced by the side of the complainant. The complainant failed to give explanation of delay in filing complaint. It is said by PW1 in cross examination that plot no. 447 is a non-agricultural property and doba. Although the complainant claimed that he was in possession of that plot and his father got it by virtue of a deed of exchange but his father's name was not recorded in R.S. Record of Rights. On the other hand, land measuring 0.19 acre in the plot no.447 was recorded in the name of Bhuban and others and the said Bhuban is the father of the accused No(s) 1 to 3. So, there is apparent dispute regarding possession of the plot of land. The complainant failed to identify the place of occurrence.

8. Learned Magistrate hold that all the witnesses who have deposed on behalf of the complainant are his pocket witnesses and intentionally deposed against these respondents. It appears that there was a dispute between the parties and as such there is a chance of false implications of these respondents in connection with the case.
9. After scanning of the impugned judgement and after going through the entire materials on record, I find that there is no merit in the appeal and there is nothing to interfere in the impugned judgement passed by the learned Magistrate.
10. The present appeal sans merit and is liable to be dismissed.
11. The appeal being C.R.A. 454 of 2001 is dismissed.
12. Urgent Photostat certified copy of this order, if applied for, be given to the parties on payment of requisite fees.
13. Department is directed to send a copy of this order along with Trial Court Record, if received to the Trial Court immediately.

(Prasenjit Biswas, J.)