

(2013) 10 DEL CK 0218

Delhi High Court

Case No: Criminal A. No. 550 of 2003 and Criminal A. No. 335 of 2003

Mohinder Pratap

APPELLANT

Vs

The State of NCT of Delhi

Pramod Rai Vs State (NCT of
Delhi)

RESPONDENT

Date of Decision: Oct. 9, 2013

Acts Referred:

- Penal Code, 1860 (IPC) - Section 120B, 489B, 489C

Citation: (2013) 6 ILR Delhi 4417 : (2013) 4 JCC 2542

Hon'ble Judges: S.P. Garg, J

Bench: Single Bench

Advocate: V.P.S. Raghav in both Appeal, for the Appellant; M.N. Dudeja, APP in both Appeal, for the Respondent

Final Decision: Disposed Off

Judgement

S.P. Garg, J.

Mohinder Pratap (A-1) and Pramod Rai (A-2) were arrested in case FIR No. 107/2000 PS Lodhi Colony and sent for trial with the allegations that on 02.04.2000 in between 08.00 to 08.30 P.M. at House No. WZ-656, Gali No. 27, Shad Nagar, Shanipura, Palam Colony, they hatched criminal conspiracy to circulate forged/counterfeit currency notes. It is further alleged that pursuant to the said conspiracy on 04.04.2000 at about 05.30 P.M., A-1 used the counterfeit currency note in the denomination of Rs. 50/- to purchase a campa from the complainant-Satpal Chawla at Shop No. 42, Mahender Marg, Lodhi Colony, New Delhi, knowing or having reasons to believe it fake. 32 counterfeit currency notes in the denomination of Rs. 50/- were recovered from his possession. During the course of investigation, statements of the witnesses conversant with the facts were recorded. After completion of investigation, a charge-sheet was submitted in the court in which A-1 and A-2 were duly charged and brought to trial. To prove its case, the prosecution examined twelve witnesses.

In their 313 statements, the accused persons claimed themselves innocent and falsely implicated in the case. The Trial Court, by a judgment dated 22.05.2002 in Sessions Case No. 224/2000 held A-1 guilty for committing offences under Sections 120B/489B/489C IPC. A-2 was held guilty u/s 120B IPC Only. By an order dated 30.05.2002, they were given various terms of imprisonment with fine. Being aggrieved, they have preferred appeals. During the course of arguments A-1 opted not to challenge his conviction under Sections 489B/489C IPC and accepted it voluntarily. He however, prayed to take lenient view as he had already remained in incarceration for 39 months and was not a previous offender. A-2 was convicted only for offence u/s 120B IPC. Allegations against him were that he and A-1 were found counting currency notes on 02.04.2000 at House No. WZ-656, Gali No. 27, Shad Nagar, Shanipura, Palam Colony. The Prosecution however, could not produce any cogent and reliable evidence to establish A-2's complicity in the offence. PW-7 (Munni Lai) merely disclosed that on 02.04.2000, A-1 and A-2 were seen counting notes in the room under tenant of A-1. He did not elaborate if the currency notes being counted were in denomination of Rs. 50/- and were fake. In the cross-examination, he was fair enough to admit that he was not aware if the currency notes were 100 or 500 and did not know whether those were new or old. He was also unable to tell their denomination. No adverse inference can be drawn from this circumstance as mere counting of currency notes by both A-1 and A-2 does not establish conspiracy to circulate counterfeit currency notes. Admittedly, no fake currency note was recovered from A-2's possession. He was not present at the time of purchase of campa by A-1 from the shop of the complainant. No overt act was attributed to him in the incident to infer that he was also beneficiary. Mere presence of A-2 with A-1 at his residence is inconsequential. The meeting of minds or the element of agreement is the essence of the offence u/s 120B IPC. Mere evidence of association is not sufficient to lead to a inference of conspiracy. The prosecution must show that A-2 agreed with A-1 that together they would accomplish the unlawful object of the conspiracy. Even if facts relied upon taken at their face value cannot lead to the inference beyond doubt that there was meeting of minds between A-1 and A-2. Addl. Public Prosecutor fairly admitted that the evidence adduced on this aspect is highly scanty and weak. The prosecution has failed to establish its case beyond doubt and A-2's conviction and sentence cannot be sustained and he (A-2) is acquitted of the charge.

2. Since A-1 has opted not to challenge the findings of the Trial Court under Sections 489B/489C IPC and there is ample evidence on record coupled with recovery of fake currency notes, the findings on conviction stands affirmed. As regards sentence, nominal roll shows that he has already remained incarceration for two years, eleven months and twenty seven days as on 10.11.2003. He also earned remission for five months and two days. He has clean antecedents and was not involved in any other criminal activity. After his enlargement on bail and suspension of substantive sentence on 17.11.2003 his involvement in similar crime did not surface. The fine

has since been deposited. All these circumstances are sufficient to release A-1 for the period already undergone by him in this case.

3. The Trial Court shall ensure that the fine imposed has since been deposited by A-1. The appeals stand disposed of in the above terms. Trial Court record be sent back immediately.