

Upendra Nath Deka Vs Haladhar Das

Court: Gauhati High Court

Date of Decision: June 20, 2008

Acts Referred: Penal Code, 1860 (IPC) â€” Section 420

Citation: (2009) 3 GLR 788 : (2008) 3 GLT 47

Hon'ble Judges: Iqbal Ahmed Ansari, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

I.A. Ansari, J.

This revision is directed against the judgment and order, dated 31.03.2008, passed, in Criminal Appeal No. 46 (K)/2006,

whereby the learned Additional Sessions Judge (FTC) No. 4, Kamrup, Guwahati, has dismissed the appeal and upheld the judgment and order,

dated 05.07.2006, passed, in Complaint Case No. 63672004, by the learned Special Judicial Magistrate, Kamrup, Guwahati, convicting the

accused-petitioner u/s 420 IPC and sentencing him to undergo simple imprisonment for a period of 2 years and also pay fine of Rs. 2,000/- and, in

default of fine, suffer simple imprisonment for a further period of six months.

2. Heard Ms. S.D. Baruah, learned Counsel for the petitioner.

3. The case of the persecution, as unfolded, at the trial, was, in brief, thus: On 04.09.2001, the accused took an amount of Rs. 75,000/- from the

complainant with an assurance that the accused, who is an employee of the Flood Control Department, would arrange a job for the son of the

complainant in the Flood Control Department, Government of Assam, within a period of six months from the date of receiving the money, but the

accused neither got the complainant's son any job nor did he refund the money. Not only that the accused did not refund the money, he even

started misbehaving and threatening the complainant.

4. In the face of the cogent evidence brought on record, it could not be disputed, in this revision, that accused had indeed, received Rs. 75,000/-

pursuant to the agreement aforementioned. This agreement, as has been found by the learned Court below, was an agreement, whereby the

accused had undertaken to provide a job to the son of the complainant. Not even an iota of evidence exists on record to show that the accused

had any means to provide such a job or intended to provide any job at all to the complainant's son. In such circumstances, and in the total

absence of anything showing to the effect that the accused had the means to provide the complainant's son with a job as had been promised by

him, there can be no escape from the conclusion, and have been rightly concluded by the learned Courts below, that the accused, even at the time,

when he had received the money, knew well that he would not be able to provide any job and yet he induced the complainant to part with the

money, with a promise to get the complainant's son a job in Flood Control Department. In the face of these proven facts, no fault can be found in

the conclusion reached by the learned Court below that the accused-petitioner had dishonestly induced the complainant to part with the money and

thereby committed an offence punishable, in the facts and circumstances of the present case, u/s 420 IPC. Based on the evidence, so adduced, the

learned trial Court convicted the accused, as indicated hereinabove, and the learned appellate Court has upheld the conviction. Even if the

agreement, in question, is treated as illegal, the offence of cheating is still complete inasmuch as the accused-petitioner is clearly proved to have

dishonestly induced the complainant to part with the money as aforesaid. In such a situation, the conviction of the accused-petitioner cannot be said

to have been suffering from any infirmity, legal or factual.

5. Coupled with the above, in the facts and circumstances of the present case, the sentence passed against the accused-petitioner, cannot be said

to be harsh or unreasonable.

6. Because of what has been discussed and pointed out above, this Court finds no reason to interfere with the conviction of the accused-petitioner

and/or the sentence passed against him. This revision, therefore, not admitted and shall accordingly stand dismissed.