
(2013) 01 MP CK 0100

Madhya Pradesh High Court (Gwalior Bench)

Case No: Criminal Revision No. 08 of 2013

State of M.P.

APPELLANT

Vs

Narayan Singh

RESPONDENT

Date of Decision: Jan. 29, 2013

Acts Referred:

- Evidence Act, 1872 - Section 45, 47, 73
- Penal Code, 1860 (IPC) - Section 409, 420, 467, 471

Citation: (2013) ILR (MP) 946 : (2013) 2 MPHT 408 : (2013) 3 MPJR 19 : (2013) 2 MPJR 131

Hon'ble Judges: G.D. Saxena, J; A.K. Shrivastava, J

Bench: Division Bench

Advocate: B.K. Sharma, Public Prosecutor for the revisionist/State, for the Appellant;

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

A.K. Shrivastava, J.

The respondent/accused was tried for the offences punishable under Sections 467, 471, 409 and 420 of IPC, but after recording the evidence, the charges were not found to be proved and he was acquitted. After obtaining leave to file appeal, an appeal was preferred before the learned First Additional Sessions Judge, Datia who has dismissed the appeal by the impugned judgment. The contention of the learned Public Prosecutor appearing on behalf of the revisionist/State is that the complainant has categorically stated in her testimony that by putting her forged signatures on the withdrawal form, the respondent/accused has withdrawn an amount of Rs. 19,000/- from Gram Panchayat's Account No. 5837 of Punjab National Bank, therefore, her testimony should be given credence and not that of handwriting expert Rajendra Verma (P.W. 17) who has stated in his testimony that the admitted signatures of complainant-Angoori Devi (P.W. 1) do tally with that of the disputed signatures on the withdrawal form etc. and, therefore, the accused/respondent be convicted holding the charges to be proved.

2. Considered the submissions.

3. On a bare perusal of the impugned judgment, this Court finds that at the relevant point of time, complainant Angoori Devi (P.W. 1) was serving on the post of Sarpanch while the accused/respondent was serving on the post of Panchayat Secretary. The allegation against the respondent is that he has withdrawn an amount of Rs. 19,000/- of Gram Panchayat's account of which the complainant was the Sarpanch for his own use and has tampered the record, therefore, he has committed the offences under Sections 467, 471, 409 and 420, IPC. On a bare perusal of the findings recorded by the two Courts below, this Court finds that although there is a statement of complainant-Angoori Devi (P.W. 1) accusing the respondent, but if her statement is kept in juxtaposition to the testimony of the Branch Manager of the Bank namely A.K. Saxena (P.W. 14) as well as the statement of handwriting expert Rajendra Verma (P.W. 17), we find that there is positive evidence of both these independent witnesses that the admitted signatures of the complainant-Angoori Devi (P.W. 1) do tally with that of the signatures on the disputed documents. According to us, the evidentiary value of the testimony of the Branch Manager, A.K. Saxena (P.W. 14) is having high credential value since he being a Branch Manager must be tallying and comparing thousands of signatures on the withdrawal forms of the customers including the signature of the complainant-Angoori Devi (P.W. 1) with their admitted signatures kept in the Bank and if he has stated that the disputed documents bear the signatures of the complainant-Angoori Devi (P.W. 1), we do not find any scintilla of doubt in our mind to hold that the charges for which the respondent was tried are not proved.

4. Apart from the evidence of Bank Manager, the handwriting expert Rajendra Verma (P.W. 17) is prosecution's own witness and not only this, he is also a handwriting expert of the State Government and, as such, his testimony carries high weightage. The Supreme Court in the case of [Ajit Savant Majagavi Vs. State of Karnataka](#), has categorically held that Section 73 of the Evidence Act does not specify by whom comparison of handwriting should be made. However, looking to the other provisions, of the Act, it is clear that such comparison may either be made by a handwriting expert u/s 45 or by anyone familiar with the handwriting of the person concerned as provided by Section 47 or by the Court itself. In Para 38, the Supreme Court has further held that as a matter of extreme caution and judicial sobriety, the Court should not normally take up itself the responsibility of comparing the disputed signature with that of the admitted signature or handwriting and in the event of the slightest doubt, leave the matter to the wisdom of experts.

5. According to us, it appears that since the Investigating Agency was itself under certain doubt that the disputed signatures on the withdrawal form etc. were of respondent/accused or not or the signatures on the disputed documents are of the complainant and therefore, her admitted signatures were taken and they were sent to the handwriting expert. Accordingly, the Government handwriting expert tallied the signatures of the complainant-Angoori Devi (P.W. 1) on the disputed documents with that of her

admitted signatures and gave an opinion that they do tally with each other. According to the Government handwriting expert, the person who has signed the specimen (admitted) signatures is the same person who has signed the disputed documents, therefore, according to us, since the handwriting expert has been examined as a prosecution witness and he was not declared hostile, therefore, his evidence is also having high credential value.

6. At this juncture, we may further add that no specific mode is provided in the Evidence Act that how the handwriting on a document or signature can be proved. u/s 47 of the Evidence Act, when the Court has to form an opinion as to the person by whom any document was written or signed, the opinion of any person acquainted with the handwriting of the person by whom it is supposed to be written or signed that it was or was not written or signed by that person, is a relevant fact and therefore, according to us, this can be proved from the statement of Branch Manager, A.K. Saxena (P.W. 14) because he must have come across several times with the signatures of the complainant. Angoori Devi (P.W. 1) since she was serving on the post of Sarpanch and used to sign cheques etc. on several occasions. The Bank Manager is totally an independent witness and we have already held herein above that his testimony is having great weightage in the case.

7. The Apex Court in the aforesaid decision of Ajit Savant Majagvai (supra), has further held that the Court can also compare the disputed signature with the admitted signature as this power is clearly available u/s 73 of the Act, however, this should be done in exceptional cases and normally as a matter of extreme caution and judicial sobriety the responsibility should be assigned to the handwriting expert, although the Court may accept or not accept his opinion on the basis of facts and circumstances of each case.

8. Thus, according to us, if both the Courts below by considering the evidence of A.K. Saxena (P.W. 14) and Rajendra Verma (P.W. 17), vis-a-vis the testimony of the complainant-Angoori Devi (P.W. 1) have come to a definite conclusion that the charges are not proved, that finding is a pure finding of fact and we decline to interfere in it in our revisional jurisdiction. Eventually, this revision application is dismissed summarily.