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(2001) 06 BOM CK 0074

Bombay High Court

Case No: Criminal Revision Application No. 268 of 1999

Abdul Majeed Abdul Reheman Sarkhot	APPELLANT
Vs	
State of Maharashtra	RESPONDENT

Date of Decision: June 19, 2001

Acts Referred:

- Penal Code, 1860 (IPC) - Section 420, 489

Citation: (2001) ALLMR(Cri) 1311 : (2002) BomCR(Cri) 155 : (2001) 3 BOMLR 542 : (2002) CriLJ 720 : (2001) 4 MhLj 111 : (2002) 2 RCR(Criminal) 18

Hon'ble Judges: T.K. Chandrashekhara Das, J

Bench: Single Bench

Advocate: Mr. H.V. Bhodbh and Mr. C.K. Pendse, for the Appellant; Mr. A.S. Saste, Assistant Public Prosecutor, for the Respondent

Final Decision: Allowed

Judgement

T.K. Chandrashekhara Das, J.
Heard learned Counsel for the Petitioner and the A.P.P.,.

2. This application is directed against the order passed by the learned Additional Sessions Judge wherein the application filed by the petitioner for discharge from offence u/s 489(b) and 489(c) and 420 of the I.P.C.

3. The short fact is that the applicant is a businessman while tendering the amount of applicant''s electric bill at the office of M.S.E.B. Sub-Division, Mahad, he had to present a counterfeit currency note of Rs. 100/- bearing No. 6AM 724288. It is alleged that he intended to use the counterfeit note as genuine currency note. However informant Balkrishna Mahadeo Pingale got suspicious about genuineness of the currency note because he could not find lion (trimurti) water seal, denomination water seal on the said note. Similarly paper used for the currency note was ordinary paper and therefore he went to the Accountant Mr. Waregaonkar.

On perusal of the note he took it to the Asstt. Engineer Mr. D.K. Mane and thereafter the note was taken to the local branch of the State Bank. Mr. Bapat was working as Manager at that time, handed over the note to the Head Cashier. The Head Cashier opined that the said currency note was counterfeit and thereafter one F.I.R. came to be filed against the petitioner. After the investigation charge-sheet has been filed.

4. The Petitioner contended before the Sessions Court that in view of the Supreme Court decision in Mohd Yasin v. State of U.P., he prayed for discharge. The said application, however has been rejected by the Sessions Court. From the F.I.R. and the order impugned herein, it is clear that the petitioner had no knowledge that the note was one of counterfeit. The Supreme Court has held in 1979 SC 1705 presumption of knowledge from mere possession of it could not be drawn unless note was apparently counterfeit. In this case also before confirming that the note was counterfeit, it was examined by several persons, who are expert in finding out to identify the counterfeit note. As I indicated earlier first was detected by Balkrishna, then the Accountant Waregaonkar, then again Asst. Engineer Mane and lastly Mr. Bapat the Manager of the State Bank of India and ultimately the cashier of the Bank. The fact that the note was fake was confirmed only after examining the five experienced persons in that field, will clearly go to show that there is no apparent signs in the note for any ordinary man to come to the conclusion that it is a counterfeit note. Admittedly the petitioner is an ordinary man, who is not in the field of examining the note every day. Therefore mere possession of the counterfeit note will have no presumption of the knowledge of the note. In order to bring the offence u/s 489(b) and (c) it should be established that note must be used knowing fully well that the note was counterfeit one. A petitioner who happened to come into possession casually cannot be prosecuted unless there are materials that he was using the note knowing that it is counterfeit.

5. In the circumstances, I find that the order declining the discharge of the applicant should be set aside.

6. In the result Revision Application is allowed. Rule is made absolute in terms of prayer clause (a). No order as to costs.

Parties to act on the copy authenticated by the Sheristedar of this Court.