

Madhya Pradesh High Court

Shrilal vs The State Of Madhya Pradesh on 11 May, 2022

Author: Anjuli Palo

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IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SMT. JUSTICE ANJULI PALO
ON THE 11th. Day OF MAY, 2022

CRIMINAL APPEAL No. 3021 of 2020

Between:-

1. REVJI S/O BABU , AGED ABOUT 70 YEARS,
OCCUPATION: LABOUR RIDHOURA
P.S MULTAI, DISTRICT BETUL (MADHYA PRADESH)
2. OCHHA S/O GOPAL , AGED ABOUT 49 YEARS,
OCCUPATION: LABOUR RIDHOURA
P.S MULTAI, DISTRICT BETUL (MADHYA PRADESH)
3. AMARLAL S/O SHYAMRAO , AGED ABOUT 37 YEARS,
RIDHOURA P.S MULTAI, DISTRICT BETUL (MADHYA PRADESH)
4. RADHELAL S/O REVJI , AGED ABOUT 34 YEARS,
OCCUPATION: LABOUR RIDHOURA
P.S MULTAI, DISTRICT BETUL (MADHYA PRADESH)

APPELLANTS

(BY SHRI PRADEEP SINGH CHOUHAN, ADVOCATE)

AND

THE STATE OF MADHYA PRADESH THR
POLICE STATION MULTAI DISTT. BETUL (MADHYA PRADESH)

RESPONDENT

(BY SHRI D.K. PAROHA, GOVT. ADVOCATE)

AND

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CRIMINAL APPEAL No. 2911 of 2020

Between: -

SHRILAL S/O BABU , AGED ABOUT 67 YEARS,
GRAM RIDHORA P.S. MULTAI DIST BETUL
(MADHYA PRADESH)

APPELLANT

(BY SHRI ABHINAV DUBEY, ADVOCATE)

AND

THE STATE OF MADHYA PRADESH THR
P.S. MULTAI DIST BETUL P.S. MULTAI
DIST BETUL (MADHYA PRADESH)

RESPONDENT

(BY SHRI D.K. PAROHA, GOVT. ADVOCATE)

These appeals coming on for final hearing this day, the court
passed the following: -

JUDGMENT

The Criminal Appeal No.2911/2020 has been filed by the appellant-Shrilal against his conviction under Sections 420/120-B, 467/120-B, 468/120-B & 471/120-B of the I.P.C. Criminal Appeal No.3021/2020 has been filed by co-accused/appellants, namely, Revji, Ochha, Amarlal and Radhelal against their conviction Sections 420/120-B, 467/120-B, 468/120-B & 471/120-B of the I.P.C. Both the appeals have been heard together and are being decided by this common judgment.

2. These appeals have been filed against the judgment dated 16.03.2020 passed by the First Additional Sessions Judge, Multai, District Betul in Sessions Trial No.204/2015, whereby appellants have been convicted and sentenced as under :-

Sections	Act	Imprisonment		
420/120-B	Indian Penal Code	R.I. for 03-03 years Rs.2000/- - 2000/-	with	fine
467/120-B	Indian Penal Code	R.I. for 03-03 years Rs.2000/- - 2000/-	with	fine
468/120-B	Indian Penal Code	R.I. for 03-03 years Rs.2000/- - 2000/-	with	fine
471/120-B	Indian Penal Code	R.I. for 03-03 years Rs.2000/- - 2000/-	with	fine

3. Both the cases were heard analogously and are being decided by this common order.
4. The prosecution story in brief is that the complainants made written complaint that the appellants-accused persons by making forged and fabricated documents/consent papers regarding consent of complainant Kaluram and then on 01.08.2014 they withdrawn the amount of Rs.19,48,886/- from the Punjab National Bank, Branch Dunava. On the basis of complainant, the police registered Crime No.643/2014 for the offences punishable under Sections 420, 463, 464, 467, 468, 471, 120-B & 34 of the I.P.C. against the appellants. However, on completion of investigation, charge-sheet was filed against the appellant before the concerned Court.
5. After committal of the case, learned trial Court framed the charges under Sections 420/120-B, 467/120-B, 468/120-B & 471/120-B of the I.P.C. against the appellants. Appellants pleaded their innocence and did not examine any witness. The learned Trial Court found the appellants guilty of committing aforesaid offences and sentenced them as mentioned above.
6. Prosecution story in brief is that the complainant Kaluram made a written complaint to the effect that land bearing Khasra No. 766 area about 8 acres is their joint property. The aforesaid land was acquired by the State Government for construction of Badam Doh Reservoir. In lieu of acquisition, the amount of Rs. 19,48,886/- was granted as compensation vide cheque No. 0016478. which was in the name of all the account holders. Aforesaid cheque was received by Rewaji appellant who deposited the same for encashment in the account No. 1057001700015131, in Punjab National Bank, Branch Dunava. No objection was received from the consenters on the stamp paper of denomination of Rs. 50/-. On such stamp papers photographs and signatures of the consenters were obtained fraudulantly by affixing photographs of some others and forging their signatures. On 06.09.2013. The compensation amount was distributed amongst the appellants by playing fraud. Out of compensation amount Jeyna ought to have received Rs. 1,00,000/-.
7. The appellants have challenged the aforesaid findings on the grounds that the trial Court has wrongly convicted them. None of the independent witness has supported the prosecution case. Neither the compensation amount has been deposited in the account of appellants, nor they withdrew the same. The findings of the trial Court are contrary to the law and facts. The trial Court has not appreciated the defence of accused. There are some material irregularities and infirmities in the prosecution case. Hence, it is prayed to set aside the impugned judgment of the Trial Court and appellants be acquitted from the charges leveled against them.
8. Learned Government Advocate has opposed the contentions of the appellants and argued the matter in support of the findings recorded by the trial Court.
9. Heard learned counsel for the parties and perused the record.
10. It is not in dispute that the land bearing Khasra No. 766, area about 8 acres situated at Village Righora is the joint property belonging to the complainant namely Kaluram and Anandram, Karu, Ochha, Anjani, Shyamrao, Rukmani Bai, Hari, Girdhari, Munna, Durga Jhular, Lallu and Shrilal, which was acquired by the State for construction of a Badam Doh Dam and its compensation

to the tune of Rs.19,48,886/- was awarded in favour of joint owners of the land through cheque No. 0016478. It is also not in dispute that the amount was credited in the account of appellant (Rewaji) in account No. 1057001700015131, in Punjab National Bank, Branch Dunava. The complainant Kaluram (PW-10) stated that appellant mis - represented and prepared the forged and fabricated documents being misrepresented by the complainant and others and taken their signatures. The appellant prepared a consent letter in their names. It is important to mention here that it is claimed that on the consent letter Ex P-21, in place of Yamuna Bai, Sita w/o Rewaji signed, in place of Durga Bai, Hemlata signed, in place of Manohar, Anandrao signed but some of the interested witnesses namely Karu (PW-1), Shyamrao (PW-2), Hemlata (PW-3), Sitabai (PW-4), Bansilal (PW-5), Anjana (PW-6) and Yamuna Bai(PW-11) turned hostile. They have neither supported the prosecution case nor corroborated the testimony of complainant-Kaluram(PW-10).

11. Nirmala (PW-9) also turned hostile. She has stated that her brother-in-law Kaluram told her that they have received compensation amount, therefore, she narrated all these things against the appellants to police in her statement recorded under Section 161 of CrPC. But in para 6, she stated that their joint family was neither partitioned nor she was aware about share of her late husband in the amount of compensation nor any forged letter was prepared before her. Her husband or her name were also not mentioned in the disputed consent letter Ex P-21 Therefore, evidence is hear-say evidence and conviction of the appellants cannot be treated on the basis her testimony.

12. Complainant Kaluram (PW-10) in his chief-examination also supported the prosecution case but in cross-examination, he admitted that appellant namely Shrilal, Hari, Girdhari and Lallu are his real brothers and Yamuna, Jhular and Durga are his real sisters. Nirmala is her sister-in-law and Late Smt. Jayna Bai was his mother. From his statement, it is proved that he has no knowledge about that what was his share in the said amount. In para-9, on the one hand, he admitted that on the basis of the consent of some share-holders in the property, the entire compensation amount was deposited in the account of the appellant Rewaji. The entire amount was withdrawn by the appellant Rewaji and they have received nothing from the compensation amount. On the other hand, in para-10 he has admitted that because he himself, Nirmala, Durga and Manohar received their share in the compensation amount, therefore, appellant Rewaji again deposited his share in the account of Punjab National Bank Branch Dunawa. In para-11, he admitted that he never went to the Bank to withdraw the amount. Similarly Nirmala and Durga were also not proceeded to take their amount.

13. In clear words, he also admitted that he had not signed in consent letter Ex. P-21 for taking the amount. In para-18, he admitted that he never stated anything against the appellant Amarlal. Before him Amarlal did not annex his photograph nor signed on the consent letter Ex. P-21. He clearly admitted that he had enmity with Amarlal and others since long time. In para-21, he admitted that the appellant Rewaji is an old person aged about 65 to 70 years and the disputed land was a joint family property belonging to them. In para-23, he admitted that he is only entitled to get his share of Rs. 30,451/- from the entire compensation amount. In para-24, he admitted that the land was joint property and not partitioned. The appellants took defence that there was enmity between them, hence, the complainant wanted more amount of the compensation. His share still has deposited in the Bank account. This fact has also been admitted by Kaluram-complainant (PW-10) that Shrilal is his real brother and he admitted that Anandrao, Anjani, Devaki, Ochha, Karu, Jhular, Shyamrao

and Bansilal and others were the consenting party. They have stated nothing against the appellants. In para-34, he admitted that their share in the compensation amount is still deposited in the Bank. It was also come on the record that properties were joint properties, hence, entire compensation amount was deposited in one account holder belongs to Rewaji. T.I. Uhare (PW-12) is a material witness but also did not support the statement of the complainant.

14. It would be worth referring to Section 471 of IPC which stipulates that whoever fraudulently or dishonestly uses as genuine any document or electronic record, shall be punished in the same manner as if he had forged such document or electronic record. If the material available on record is appreciated in proper perspective, the aforesaid fraudulent or dishonest commission of offence is missing.

15. Therefore, this Court has come to the conclusion that main ingredients of cheating and dishonesty are missing in this case against the appellants. There was enmity between the complainant and other joint holders of the property. Other joint holders have given their consent in favour of the appellants. They have nothing stated against the appellants although hand writing expert proved that on the consent letter Ex.P-21, signature of Kaluram is different from his admitted signature but the appellants have never taken share of the Kaluram. Karu, Shyamrao, Hemlata, Sitabai, Bansilal and Anjana have not supported the complainant's testimony nor the prosecution story. Hence, charges under Sections 420/120-B, 467/120-B, 468/120-B & 471/120-B of the I.P.C have not been proved. Therefore, the appeals are allowed. Appellants are liable to be acquitted from the charges levelled against them.

(Smt. Anjuli Palo) Judge Digitally signed by VARSHA DUBEY Date: 2022.05.17 14:39:48 +05'30'