
(2017) 02 CAL CK 0004
In the Calcutta High Court
Case No : 100 of 1996

Bhupendra Nath Singha Roy

APPELLANT

Vs

Subhas Das & Ors.

RESPONDENT

Date of Decision : 14-02-2017

Acts Referred:

[Indian Penal Code, 1860](#), [Section 384](#) -
Punishment for extortion

Citation : (2017) 02 CAL CK 0004

Hon'ble Judges : Joymalya Bagchi

Bench : SINGLE BENCH

Advocate : Saryati Datta

Final Decision : Dismissed

Judgement

1. The appeal is directed against the judgment and order dated 31.10.1995 passed by the learned Chief Judicial Magistrate, Jalpaiguri in C. R. Case No.59 of 1994 acquitting the opposite parties/accused persons from the accusation of having committed offence punishable under Section 384 of the Indian Penal Code.

2. Prosecution case, as alleged, against the opposite parties is to the effect that the opposite party no.2, Subhash Das, was a tenant under the appellant and he defaulted in making payment of rent and accordingly the appellant issued a notice of eviction upon him. Thereupon on 07.10.1993 at about 8.30 P.M. to 9.00 P.M. while the appellant was returning home along with witness after making purchase from Dhupguri Market he was confined by the opposite parties and they put pressure on him for signing a stamp paper. Out of fear of life the appellant was compelled to sign on a blank paper which he believed would be converted in a valuable security. The incident was informed to the local Prodhan and thereafter written complaint was lodged with the police station on 16.11.1993. Charge was framed in the instant case under Section 384 of the IPC.

3. In course of the trial the appellant himself and another witness were

examined. The defence of the opposite parties was one of innocence and false implication.

4. In conclusion of trial, the trial court by the judgment and order was pleased to acquit the opposite parties as aforesaid.

5. Nobody appears on behalf of the appellant.

6. Mr. Datta, learned counsel, is requested to appear on behalf of the State. He submits that the evidence of P.W.1 is clear and convincing and the trial judge illegally ignored such evidence and acquitted the opposite parties.

7. I have considered the evidence on record.

8. P.W.1, Bhupendra Nath Singha Roy, is the complainant/appellant in the instant case. He deposed that while he was returning from market he had been accosted by the opposite parties and they by brandishing a dagger compelled him to sign on a blank paper. He had been reported the matter to the local Prodhan for settlement but as the matter was not settled he lodged a complaint to the police and instituted the case.

9. P.W.2, Ashim Ghosh, is a neighbour of the appellant. He deposed that he was returning home from the market. He heard hue and cry and found that the opposite parties were present and were asking P.W.1 to sign on a blank paper. P.W.1 was compelled to sign such paper.

10. In cross-examination, he admitted that when he reached the place of occurrence he did not see P.W.1 signing on a blank paper and had heard the fact from the said witness.

11. In view of the aforesaid evidence on record, it appears that the relationship between the appellant and the opposite parties are strained and eviction proceeding is pending by and between themselves.

12. Under such circumstances, evidence of P.W.1 is to be taken with circumspection and some corroboration is necessary to come to a finding of guilt against the appellant. Evidence of P.W.2 does not lend sufficient credence or corroboration to the version of P.W.1. In cross-examination, P.W.2 admitted that he had not seen P.W.1 signing on a blank document and had heard of such fact from the said witness. Therefore, evidence of P.W.2 with regard to signing on a blank document under duress is a hearsay piece of evidence and cannot be treated as corroborative evidence of such version coming from the mouth of P.W.1. Trial court rightly analyzed the evidence on record and acquitted the opposite parties of the aforesaid allegations levelled against them.

13. In the aforesaid factual backdrop, I am of the opinion that the order of acquittal is well merited and does not call for any interference.

14. Accordingly, the appeal is dismissed.

15. Copy of the judgment along with LCR be sent down to the trial court at once.

16. Certified copy of this order, if applied for, be given to the parties on priority basis upon compliance of all formalities.