
(1979) 01 SC CK 0038

In the Supreme Court Of India

Case No : Criminal Appeal No. 104 of 1973

Dadamiya and Another

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 17-01-1979

Acts Referred:

Penal Code, 1860 (IPC) — Section 161, 201

Citation : AIR 1980 SC 1737 : (1980) CriLJ 1256 : (1979) 4 SCC 549 : (1979) SCC(Cri) 919 : (1979) 11 UJ 342

Hon'ble Judges : S. Murtaza Fazal Ali, J;A. D. Koshal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

S. Murtaza Fazal Ali, J.—In this appeal by special the appellant No. 1 has been convicted u/s 161 of the Indian Penal Act and Section 5 of the Prevention of Corruption Act and sentenced to one year's rigorous imprisonment and a fine of Rs. 300/-. Resulbi, the second appellant, who is the wife of the first appellant, has been convicted u/s 165A IPC. and Section 201 IPC. and sentenced to imprisonment till the rising of the Court.

2. The facts relating to the prosecution of the appellants have been detailed in the judgment of the High Court and the Special Judge and it is not necessary for us to repeat the same all over again. Both the courts below after careful consideration and detailed marshalling of the evidence found that the prosecution case against the appellants has been proved beyond reasonable doubt. The defence of the appellant was that he had not taken the bribe but the money was planted on him. The courts below have rejected the defence of the appellant and have pointed out that there was no reason for the police or the complainant to falsely implicate the appellants. Mr. Anwar Ahmed in support of his appeal submitted a number of arguments based on the evidence and the facts of the case which were advanced before the High Court and rejected. We are not in a position to accept these arguments in this Court as they appear to us to be

wholly untenable. For instance it was argued that the appellant did not himself receive the money which was paid to his wife. The High Court has rightly pointed out that there is overwhelming evidence to prove that the money was paid to Resulbi as desired by the appellant and she tried to destroy the currency notes.

3. It was next contended that Article 14 is a petrol book showing the tour programme of the first appellant showed that he was to leave for some other place from 25-5-69 to 28-5-69 but this does not provide a complete alibi for Dadamiya. The document has no authenticity as it is written by Dadamiya in his own writing and does not exclude the possibility of his returning to P.S. Wani on 28-5-69 to receive the bribe offered. This circumstance therefore is of no instance to the first appellant. As regards the question of sentence since the appellant has been awarded a sentence of one year it is not necessary to impose a sentence of fine. We, therefore, while maintaining the conviction and the sentence of imprisonment, set aside the sentence of fine. With this modification the appeal is dismissed.