
(2013) 12 DEL CK 0242
In the Delhi High Court
Case No : Criminal A. 550 of 1999

Feroz Khan

APPELLANT

Vs

State (NCT Govt. of Delhi)

RESPONDENT

Date of Decision : 06-12-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 489B, 489C

Citation : (2014) 1 AD 611 : (2014) 1 JCC 250

Hon'ble Judges : S.P. Garg, J

Bench : Single Bench

Advocate : Sumeet Verma, for the Appellant; Lovkesh Sawhney, APP, for the Respondent

Final Decision : Disposed Off

Judgement

S.P. Garg, J.—Feroz Khan and Sattar Khan were arrested in case FIR No. 146/88 PS Defence Colony and sent for trial u/s 489B IPC on the allegations that on 05.08.1988 at about 01.00 P.M. at bus stop Sadiq Nagar, Madangir, they in furtherance of common intention attempted to use counterfeit Indian currency notes to the complainant Vinod Kumar. After completion of investigation, a charge-sheet was submitted and both the accused persons were duly charged and brought to trial. The prosecution examined seven witnesses to establish their guilt. In 313 statements, the accused persons denied their complicity in the crime and pleaded false implication. The trial resulted in conviction of the appellant u/s 489C IPC giving rise to the filing of the present appeal. During the course of arguments, learned counsel for the appellant Feroz Khan, on instructions, stated at Bar that he has opted not to challenge the findings of the Trial Court on conviction u/s 489C IPC. He prayed to take lenient view and to modify the sentence order as the appellant has remained in custody, in this case, for more than four months and has no criminal antecedents. Learned Addl. Public Prosecutor has no objection to consider the mitigating circumstances.

2. Since the appellant has opted not to challenge the findings of the Trial Court

on conviction, the conviction u/s 489C IPC stands affirmed. By an order dated 25.09.1999, the appellant was awarded RI for three years with fine Rs. 3,000/-. It is informed that the fine has since been deposited. The incident pertains to the year 1988. The appellant has suffered ordeal of the trial/appeal for about 25 years. Nominal roll dated 28.08.2009 reveals that he remained in custody, in this case, for one month and three days as on 27.09.1999. However, he was enlarged on bail vide order dated 10.12.1999. Apparently, he remained in custody for more than four months in this case. It further reveals that the appellant had no criminal antecedents and was not involved in any criminal case whatsoever. His overall jail conduct in the jail was satisfactory. He was charged u/s 489B IPC but was acquitted due to non-appearance and examination of the complainant and convicted u/s 489C IPC only being in possession of two counterfeit currency notes in the denomination of Rs. 100/-, each. During investigation, source from where these currency notes were procured could not be ascertained. No material was found during search of the house to infer that the appellant used to manufacture or print the counterfeit currency notes or had necessary facilities or equipment for that. Considering these mitigating circumstances, the period already suffered by the appellant Feroz Khan in custody, in this case, is taken as substantive sentence. He shall, however, pay the unpaid fine (if any) within fifteen days in the Trial Court. The appeal stands disposed of in the above terms. Trial Court record be sent back forthwith. Copy of the order be also sent to the Superintendent Jail for information.