
(2016) 06 SC CK 0055

In the Supreme Court Of India

Case No : Criminal Appeal No. 2416 of 2010

Hanuman Chand

APPELLANT

Vs

State, Rep. by Inspector of Police

RESPONDENT

Date of Decision : 10-06-2016

Acts Referred:

Penal Code, 1860 (IPC) — Section 511
Prevention of Corruption Act, 1988 — Section 13(1)(d)

Citation : (2016) 06 SC CK 0055

Hon'ble Judges : Pinaki Chandra Ghose and Amitava Roy, JJ.

Bench : Division Bench

Advocate : Ms. Srishti Govil, Balaji Srinivasan, Advocates, for the Appellant;
S.N. Terdal, N.K. Karhail, M.K. Maroria, Arvind Kumar Sharma, (N.P.), Advocates,
for the Respondent

Final Decision : Allowed

Judgement

1. This appeal is directed against the judgment and order dated 17.3.2010 passed by the High Court of Judicature at Madras disposing, amongst others, the appeal filed by the present appellant against his conviction under Sections 120B r/w Section 420 r/w Section 511 IPC and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 (hereinafter referred to as the "Act") and sentencing him to suffer rigorous imprisonment for one year and with fine of Rs. 1,000/-, in default, R.I. for three months for the charge under Section 120B r/w Section 420 r/w Section 511 IPC, and R.I. for two years and fine of Rs. 3000/-, in default, R.I. for six months for the charge under Section 13(2) r/w Section 13(1)(d) of the Act.

2. By the impugned judgment and order, the appeal filed by the appellant was partly allowed. While maintaining the conviction, the sentence of imprisonment was converted from one of rigorous imprisonment to one of simple imprisonment for one year on both counts.

3. The case of the prosecution, in brief, is that at the relevant time, the appellant

was the Development Officer of the United India Insurance Company Limited. The co-accused tried as A2, was then employed as Assistant Divisional Manager in the same company at Royapuram Branch. A3 was the owner of a lorry bearing registration No. TMY 9655 and A4 was the financier of the said lorry. The lorry met with an accident on 22.9.1988 at about 9 p.m. when it did not have any insurance cover. The allegation against the accused persons was that all of them had entered into a criminal conspiracy and created the insurance policy for the vehicle in question backdating it on 22.9.1988 and thus caused wrongful loss to the insurance company to the extent of Rs. 1,24,200/-. The charge against the accused persons was that the appellant, by misusing his official position as Development Officer, received the insurance premium for the policy after the accident on 23.9.1988 and directed co-accused A2 to prepare an acceptance advise and the insurance policy as if the same had been issued on 22.9.1988 itself. In pursuance of the same conspiracy, A2 prepared the acceptance advice, as if the vehicle had been insured on 22.9.1988 and on the strength thereof, A3 with the help of A4 avoided the financial loss arising out of the accident and thereby dishonestly caused wrongful loss to the insurance company to the tune of Rs. 1,24,200/-

4. The prosecution alleged that the proposal form was filled in the handwriting of the appellant which was impermissible and it was signed by him with the date 22.9.1988 thereon. He also handed over the insurance premium amount of Rs. 304 to A2 on the next date i.e. 23.9.1988 whereafter the official formalities were completed but the insurance policy was shown to have been issued on 22.9.1988.

5. The accused persons denied the charge and also endorsed the same stand in course of their examination under Section 313 Cr.P.C.

6. The trial Court on a consideration of the evidence on record convicted and sentenced the accused persons as above. The High Court, however, on appeals filed by the accused persons, maintained the conviction against the appellant but acquitted the co-accused Nos. 2 and 3.

7. As the impugned judgments and orders of the trial Court and the High Court would reveal, heavy reliance was placed on the statement of A2, one of the alleged conspirators, made before the vigilance officer to the effect that the proposal had been handed over to him on 23.9.1988 by the appellant and that he had prepared the acceptance advice in which, he by mistake entered the date, as mentioned in the proposal form, as 22.9.1988. The courts also relied on a letter written by the appellant to the Chief Vigilance Officer in which he stated to have collected the proposal form and the premium amount on 22.9.1988 and handed over the same in the office on the same date, but having found that the proposal form was not signed, he signed it on behalf of the proposer. The Trial Court, however, took note of the fact that there was no entry of the premium amount in the collection register on 22.9.1988 and thus concluded that neither the proposal form was submitted on 22.9.1988 nor was the insurance premium paid on the date. This was clearly in the teeth of the insurance policy, which on

the face of it reveals that it had been issued on 22.9.1988.

8. As would be evident from hereinabove, the case of the prosecution is mainly based on the statement of A2 rendered before the Vigilance Officer and the letter of the appellant in which though he had averred to have received the proposal form and the insurance premium on 22.9.1988, he admitted to have himself signed the proposal form on the next date i.e. 23.9.1988. Having regard to the charges framed against the accused persons, it was incumbent on the part of the prosecution to convincingly prove the ingredients of the offence of conspiracy and cheating and further the offence of criminal misconduct by the appellant as envisaged under Section 13(1)(d) of the Act, True it is that, very often no direct evidence of conspiracy is readily available and the facts and circumstances attendant on the offending act establish the same by implication. In the instant case, the proved documents on record demonstrate that the policy in fact had been issued on 22.9.1988, a fact contradicting the charges levelled. The acquittal of A2 and A3, in our opinion, demolishes the charge of conspiracy, they being the alleged co-conspirators in the crime. Direct and convincing evidence of the appellant obtaining for himself or for any other person any valuable thing or pecuniary advantage by abusing his position as a public servant is also lacking. The presumption under Section 20 of the Act is also not attracted in the facts and circumstances of the case. The policy dated 22.9.1988, to reiterate is a very strong evidence of the issuance thereof on the very same date. The admission of the appellant in his letter, to have signed the proposal form, if true is a breach of the procedural norms but by itself in absence of any cogent and convincing evidence does not prove the charges levelled. Further there is always a presumption of validity of official acts, which in the singular facts of the case, the prosecution has not been able to persuasively dislodge. More importantly, criminal conspiracy being the substratum of the charge, the acquittal of A2 and A3 demolishes the same.

9. On a cumulative consideration of all above, we are of the considered opinion that the appellant in the facts of the present case is entitled to the benefit of doubt. The impugned judgment and order is thus, interfered with and is set aside. The appellant is acquitted of the charges and is set at liberty.

10. The appeal is allowed.