

(2019) 04 BOM CK 0118
In the Bombay High Court
Case No : Criminal Appeal No. 68 Of 2013

Jahanurbir Gayasuddin Shaikh

APPELLANT

Vs

State Of Maharashtra

RESPONDENT

Date of Decision : 15-04-2019

Acts Referred:

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

Citation : (2019) 04 BOM CK 0118

Hon'ble Judges : Sadhana S. Jadhav, J

Bench : Single Bench

Advocate : Nasreen S.K. Ayubi, S.S. Pednekar

Final Decision : Disposed Off

Judgement

1. The appellant herein is convicted for offence punishable under section 489B of the Indian Penal Code and sentenced to suffer R.I. for 3 years and to pay fine of Rs. 1,000/- I.d. to suffer R.I. for 3 months. The appellant herein is also convicted for the offence punishable under section 489(C) of the Indian Penal Code and sentenced to suffer R.I. 3 years and to pay fine of Rs. 1,000/- I.d. to suffer R.I. for 3 months by the Ad-hoc Additional Sessions Judge, City Civil and Sessions Court, Gr. Mumbai vide Judgment and Order dated 21/7/2012 in Sessions Case No. 7 of 2012. Hence, this appeal.

2. Such of the facts necessary for decision of this case are as follows :

(i) One Ramsurat Kewat was selling utensils in Mankhurd. On 2/9/2011 he was at PMGP colony. At about 7.30 p.m. one lady has purchased utensils worth Rs. 90 and towards payment of the same, she had handed over Rs. 1000/- currency note. Ramsurat Kewat had returned the remainder amount.

(ii) He had some suspicion about the genuineness of the said currency. On 3/9/2011 he approached Hindustan Co-operative Bank and handed over the said currency note to the cashier. At that juncture, he learnt that said note is counterfeit note.

(iii) On the same day, he intercepted the present appellant, who had handed over counterfeit note and confronted her with the same. At that juncture, other shop keepers had approached Mr. Kewat. All of them had been cheated by the present appellant, who used to circulate counterfeit currency notes and thereafter, Mr. Kewat has lodged a report at the police station.

(iv) The appellant was brought to the police station by the first informant and 3 other shop keepers. On the basis of the said report, Crime No. 240 of 2011 was registered under section 489(B) and (C) of the Indian Penal Code against accused.

(v) The appellant was arrested. The other shopkeepers who are witnesses, had handed over the counterfeit notes circulated by the present appellant in their favour. She was shown as arrested on 4/9/2011. A report was received from the Currency Note Press, Nashik that the said notes sent to them were counterfeit notes.

3. At the trial, prosecution examined as many as 8 witnesses. The case rests upon the evidence of P.W. 1 Ramsurat Kewat P.W 2 Nitin Tambole, who happened to be cashier of Hindustan Cooperative Bank. The other witnesses are the people who had received counterfeit notes from the appellant. P.W.7 PSI Mandhare and P.W. 8 Pravin Tejale are the Investigating Officers.

4. The prosecution has been able to establish that the appellant had circulated counterfeit notes on 5 occasions in favour of 5 different persons. She was identified by the witnesses. She was taken to police station also by the witnesses. In the course of investigation, the Investigating Officer has seized the counterfeit notes.

5. It was the contentions of the defence counsel that to establish the offence punishable under section 489(B) and (C) of the Indian Penal Code, it is necessary to firstly establish that the appellant had knowledge that the said currency was counterfeit currency. According to the learned Counsel, there is no reason assigned by the prosecution witnesses to hold that the appellant had knowledge about the counterfeit currency notes.

6. In the course of the trial, the prosecution has placed on record the expert opinion. The concerned authority who is expert in currency note opined that five notes which, were sent to the Currency Note Press were found to be counterfeit currency note. The witnesses including first informant could not be shattered in the cross-examination. On 3/9/2011 the witness has seen that there was quarrel which had ensued between the parties.

7. The appellant had undergone the sentence imposed upon her. The witnesses in the present case have identified the accused rightly and have also identified her in the court. Several people had been victimized in such offences. Taking into consideration the overall aspect of the matter, conviction of the appellant for the offence punishable under section 489B and C deserves to be maintained. Hence,

the appeal is dismissed.

8. The professional fees to be quantified. as per rule to be paid to the learned Counsel appointed to espouse the cause of the appellant by the High Court Legal Services Committee within 3 months from today.

9. The appeal is disposed of accordingly.