

(1988) 11 CAL CK 0002
In the Calcutta High Court

Narayan Chandra Bhunia

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 30-11-1988

Acts Referred:

Penal Code, 1860 (IPC) — Section 420

Citation : (1989) CriLJ 1807

Hon'ble Judges : A.C. Sen Gupta, J

Bench : Single Bench

Judgement

A.C. Sen Gupta, J.—This appeal arises out of the CrI. Case No. 101 of 1980 instituted on the complaint of the present appellant against the respondent 1 u/s 420, I.P.C. filed before the learned Magistrate on 1-4-80 on the allegations that on 30-9-79 the appellant paid Rs. 45/- to the accused for the purpose of obtaining the certified copy of a registered document, that the accused opposite party 1 promised to secure the certified copy of the deed and make over the same to the complainant appellant (P.W.1) within a month from that date, that the accused did not keep his promise in spite of demands, that on 30-3-80 when again the complainant demanded the certified copy of the deed, the accused denied having received any money from the complainant.

2. The defence was that the complainant did not pay any money to the accused and that he brought this case for the purpose of teaching a lesson to the accused because the accused refused to comply with the complainant's request for damaging the Criminal Case of Cadia Kisku in which the accused acted as "Tatbir".

3. The learned Magistrate, after considering the evidence adduced, found that the charge could not be proved and acquitted the accused. Hence this appeal.

4. The learned Magistrate found that the accused was not guilty on the basis of his finding that the evidence of the prosecution witnesses would not show that there was any inducement whatsoever on the part of the accused and that the

complainant ultimately paid the money to the accused out of his own accord for his purpose and that, therefore, it could not be said that the accused took money from the complainant by any inducement or cheating him.

5. After going through the evidence of the witnesses adduced by the complainant, I find that the aforesaid findings of the learned Magistrate is quite reasonable. It is true that u/s 420, I.P.C., it is not necessary that a false pretence should be made in express words by the accused and that it may be inferred from all the circumstances including the conduct of the accused in obtaining the money. Thus in order to prove a charge u/s 420, I.P.C. against the accused, it must be proved that the complainant was deceived and induced by the accused to pay him the sum of Rs. 45/-, that the complainant paid the money to the accused in consequence of his having been deceived by the accused and that the accused acted fraudulently or dishonestly when he made such inducement which was acted upon by the complainant. These ingredients of the offence could not be proved by the evidence adduced. The substance of the evidence of the 5 witnesses examined by the complainant including himself (P.W.1) is that the complainant paid a sum of Rs. 45/- to the accused for the purpose of securing a copy of registered deed. There is no evidence of any circumstance to show that the accused fraudulently or dishonestly induced the complainant to pay the money. From the mere fact that the accused ultimately denied having received any money from the complainant, it cannot be held that the accused made fraudulent or dishonest inducement.

6. In the circumstances of the case, some of which I have noted above, I hold that the finding of the learned Magistrate is quite reasonable. The appeal is, accordingly dismissed. Records to be sent to the court below.