
(2014) 05 RAJ CK 0071

In the Rajasthan High Court

Case No : Criminal Revision Petition No. 1551 of 2009

Parasmal and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 16-05-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313 — Penal Code, 1860 (IPC) -
Section 406, 411, 414

Citation : (2015) 2 RLW 1075

Hon'ble Judges : M.C. Sharma, J.

Bench : Single Bench

Advocate : Amar Singh and Tripurari Sharma, for the Appellant; R.R. Baisla, P.P.,
for the Respondent

Final Decision : Disposed off

Judgement

M.C. Sharma, J. This cr. revision petition has been filed by the petitioner against the judgment dated 2.7.2009 passed by Addl. Sessions Judge (Fast Track) No. 3, Jaipur City, Jaipur in Cr. Appeal No. 60/2008 (43/2007) by which he partly allowed the appeal filed by the petitioners and remanded the matter back to the trial Court with the direction to decide the matter afresh after conducting fresh trial upon framing the charge. Brief facts of the case are as under:-

"On 28.10.2002, Suresh Meetha Lal Shah submitted a report before Police Station GRP, Jaipur. On the basis of said report, FIR No. 301/2002 was registered for the offence under Section 406 IPC. After completion of investigation, the police filed a challan against accused Parasmal, Ganpat Lal, Ashok Kumar and against accused Chunni Lal. The trial court took cognizance against the accused persons. Thereafter charges were framed, the accused persons denied for the charges and claimed for trial. The prosecution produced its witnesses and got exhibited some documents. In defence, the statement of the accused persons were recorded under Section 313 CrPC and after hearing the arguments of both the sides, the learned trial court passed the judgment dated 20.1.2007

convicting the accused persons Parasmal, Ganpat and Ashok for the offence under Section 411 IPC and sentencing each of them to undergo 6 months" SI and to pay fine of Rs. 200/-; in default of payment of fine, to further undergo 7 days" additional imprisonment and accused person Chunni Lal was convicted for the offence under Section 414 IPC and sentenced to undergo 6 month"s SI with fine of Rs. 200/-; in default of payment of fine, to further undergo 7 days" imprisonment. Against the said judgment of the trial court dated 20.1.2007, appeal was preferred by the accused persons. The appellate court vide judgment dated 2.7.2009 partly allowed the appeal and passed the following judgment:

2. Against the said judgment, this revision petition was preferred before this Court.

3. Learned counsel for the petitioners Mr. Amar Singh and Tripurari Sharma, appearing on behalf of the petitioners have objected with the following contentions:

(i) The appellate court cannot remand the matter for conducting whole trial afresh and specifically when the accused persons were acquitted from some of the charges levelled against them, as ordered by the trial court vide judgment dated 20.1.2007;

(ii) The appellate court can't say to re-frame the charges and to re-try the case.

4. For the aforesaid purpose, they have raised certain objections in this petition. They have requested to this Court that the judgment dated 2.7.2009 passed by Addl. Sessions Judge (Fast Track) No. 3, Jaipur City, Jaipur should be quashed and set-aside and matter should be remanded to the court below with the direction to decide the matter afresh in the light of the aforesaid objections and any other objections, which the petitioners want to raise, and till the fresh decision of Addl. Sessions Judge (Fast Track) No. 3, Jaipur City, Jaipur, the operation of the judgment dated 20.1.2007 passed by Addl. Chief Judicial Magistrate (Railway), Jaipur City, Jaipur should be stayed.

5. On the other hand learned PP appearing for the State as well as counsel for the respondent No. 2 have opposed the same. Mr. Prahlad Sharma counsel for the respondent No. 2 has requested that if this Court is going to remand the matter to the court below, in such circumstances he should also be permitted to raise his objections before the court below with the judgments of High Courts as well as Hon"ble Supreme Court.

6. I have heard learned counsel for the petitioners, and learned PP appearing for the State as also the counsel for the respondent No. 2.

7. Having heard the learned counsel for the parties as also on perusing the relevant material on record, in my view, learned court below has committed error while passing the judgment dated 2.7.2009 in Cr. Appeal No. 60/2008 (43/2007). Hence, the judgment dated 2.7.2009 passed by Addl. Sessions Judge (Fast Track) No. 3, Jaipur City, Jaipur in Cr. Appeal No. 60/2008 (43/2007) is set

aside and the matter is remanded to the Court below with the direction to decide the matter afresh in the light of aforesaid objections and the grounds which the petitioners have raised through this petition and the judgments, if any, to be submitted by both the parties, after giving opportunity of hearing to the parties concerned, in accordance with law. Till the decision by the court below i.e. Addl. Sessions Judge (Fast Track) No. 3, Jaipur City, Jaipur, where the matter is remanded for fresh decision, the operation of the judgment dated 20.1.2007 passed by Addl. Chief Judicial Magistrate (Railway), Jaipur City, Jaipur shall remain stayed.

8. Both the parties are directed to appear before the court below on 27.5.2014. The Cr. revision petition stands disposed of accordingly.