

(2013) 07 MP CK 0137

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 599 of 2004

Ram Kumar

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 25-07-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 374

Penal Code, 1860 (IPC) — Section 120B, 420, 467

Prevention of Corruption Act, 1988 — Section 13(1)(d)(i), 13(2)

Citation : (2013) 07 MP CK 0137

Hon'ble Judges : Shantanu Kemkar, J; Mool Chand Garg, J

Bench : Division Bench

Advocate : Vivek Singh, with Mr. Rajesh Chouhan, for the Appellant; Manoj Dwivedi, learned Additional Advocate General, for the Respondent

Judgement

Shantanu Kemkar, J.—This appeal u/s 374 of the Code of Criminal Procedure has been filed by the appellant, who by now is 91 years old person, against the judgment dated 29.05.2004 passed by the Special Judge, Dhar in Special Case No. 02/1997, convicting the appellant u/s 13(1)(d)(i) read with Section 13(2) of the Prevention of Corruption Act, 1988 and sentencing him to undergo imprisonment for one year with fine of Rs. 2,000/-; in default of payment of fine, one month simple imprisonment. According to the prosecution case, a complaint was lodged by the then MLA Smt. Jamna Devi alleging therein that in the matter of land acquisition at Kukshi, irregularities and fraud have been committed. The Economic Offence Investigation Bureau, on enquiry, found Naib Tahsildar - Bhaskar Lele, the beneficiaries of the compensation as also the appellant to be guilty. The allegation against the appellant was that he had proposed to grant compensation more than 10% for which the land owners were actually entitled. After completion of the investigation, challan was submitted before the trial Court against the five accused persons. The appellant and one Bhaskar Lele being Government Servant apart from Section 120-B, 467 and 420 of the Indian Penal Code offence u/s 13(1)(d)(i) read with Section 13(2) of the Prevention of

Corruption Act, 1988 was also registered against them.

2. During trial, the complainant Smt. Jamna Devi (PW-25) did not support the prosecution case and was declared hostile. The trial Court, on the basis of the other oral and documentary evidence, recorded a finding that in the note-sheet prepared for the proposal of the amount of the compensation on the basis of negotiation, interpolation and correction was made by co-accused Bhaskar Lele. He had by interpolation made the amount to Rs. 22,000/- per hectare in place of Rs. 20,000/- per hectare. As regards the present appellant, the trial Court observed that when the average price of the land per hectare was Rs. 22,000/- instead of awarding Rs. 22,000/- per hectare, the appellant/accused had increased the average value by further 10% in order to give benefit to the land owners and to cause loss to the State Government. Having held so, the trial Court convicted the appellant, as aforesaid. Feeling aggrieved, the appellant has filed this appeal.

3. We have heard learned counsel for the parties. We have also gone through the evidence and the impugned judgment.

4. On close scrutiny of the impugned judgment, we find that the trial Court has recorded a clear finding that the interpolation in the note sheet was done by the then Tahsildar Bhaskar Lele, who since died. Thus, there is no finding about any interpolation being done by the appellant in the record. As regard the grant of higher compensation than the average entitlement, the learned trial Court has recorded a finding that in another case, the value of land was assessed at Rs. 25,800/- per hectare, but the same could not have been awarded in the present case. However, in the present case, the proposal was for Rs. 24,200/- per hectare. Moreover, the trial Court has ignored the fact that the appellant had only made a proposal to grant compensation with increase of 10% from Rs. 22,000/- treating it to be a compulsory acquisition. Ultimately, as per the evidence available on record, it is the Collector who sanctioned the amount of compensation proposed by the appellant.

5. Having regard to the aforesaid evidence available on record, the proposal to award compensation of 10% more than the entitlement was made by the appellant, taking into consideration it to be a compulsory acquisition. Undisputedly, it was only a proposal made by the appellant and the final sanctioning authority was the Collector. In the circumstances, in our considered view, the appellant could not have been held guilty and could not have been convicted for the offence, as alleged. As a result, by setting aside the impugned judgment of conviction, we acquit the appellant of the offence, as alleged. The appellant is on bail; his bail and surety bonds stand discharged.