(1966) 01 AHC CK 0028

In the Allahabad High Court

Case No : Criminal Revision No. 1171 of 1964

Ramesh Chandra APPELLANT

Vs

State RESPONDENT

Date of Decision : 31-01-1966

Acts Referred:
Penal Code, 1860 (IPC) — Section 353

Citation : (1966) 18 STC 341

Hon'ble Judges : Mahesh Chandra, J

Bench : Single Bench

Advocate : J.N. Chatterji, for the Appellant; Assistant Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Mahesh Chandra, J.—This is an application in revision by Ramesh Chandra against his conviction u/s 353, Indian Penal Code, and sentence by both the Courts below. He was sentenced to undergo rigorous imprisonment for a period of one year.

2. Sri Chandra Mohan Lamgora, Sales Tax Officer, Special Investigation Branch, made a surprise check of the shop belonging to Ramesh Chandra, applicant, at Sikandrabad. He checked the account books and the stock and then went in the inner side of the shop and noticed some other account books in an almirah. It was alleged that these account books were of Ratish Chand and that Ratish Chand was not a partner in the shop. On enquiry by Sri Chandra Mohan Lamgora it was found that Ratish Chand was also a partner and the account books in the almirah were also inspected. Difference was found in the rokar in one of the account books kept in the almirah and the account books in the shop. The entries were signed by Sri Chandra Mohan Lamgora and he wanted to take the rokar said to be of Ratish Chand in his possession, but Ramesh Chandra suddenly snatched it out of Sri Lamgora''s hands and that account book disappeared. A report of the occurrence was made at the police station on 20th September,

1962, at 1.45 p.m.

3. The applicant pleaded not guilty and alleged that he had been falsely implicated out of enmity at the instance of one Har Swarup and that his account books were checked and a signed survey memo was given to him by Sri Lamgora.

4. Sri Chandra Mohan Lamgora, Sri S.V. Agarwal (the Assistant Sales Tax Officer, Bulandshahr), Ram Prasad, Har Swarup and Faqir Chand were eye-witnesses of the occurrence. In defence Shyam Sunder Lai and Ratish Chand were examined. Both the Courts below believed the prosecution evidence and disbelieving the defence evidence convicted the applicant as mentioned above.

5. The contention of the learned counsel for the applicant is that Sri Lamgora himself stated in his statement in the witness-box that he had finished the survey and that consequently there was no obstruction in his inspection and that no annoyance was caused to him u/s 353, Indian Penal Code. It is true that the inspection had been completed and Sri Lamgora signed the suspicious entries in that suspicious account book said to be belonging to Ratish Chand. He also signed the entries in the account books openly kept in the shop. But, as stated by Sri Lamgora earlier, he wanted to take into his possession the suspicious account book said to be that of Ratish Chand. He was entitled to do so Under Sub-section (3) of Section 13 of the U.P. Sales Tax Act. It provides that any officer authorised Under Sub-section (2) not being an Assistant Sales Tax Officer or an officer below that rank having reasonable grounds for believing that any dealer is trying to evade liability for tax or other dues under this Act, and that anything necessary for the purposes of an investigation into his liability may be found in any account, register or documents may seize such account, register or document as may be necessary. Sri Lamgora was a Sales Tax Officer. Sub-section (2) of Section 13 of the Act runs as follows :

All books, documents and accounts maintained by any dealer in the ordinary course of his business, the goods in his possession, and his office, shop, godowns, vessels or vehicle shall be open to inspection at all reasonable times by such officers as may be authorised by the State Government in this behalf.

6. It is clear that if an officer above the rank of an Assistant Sales Tax Officer is authorised Under Sub-section (2) of Section 13 for inspection he shall also be authorised to seize the document. Sri Lamgora who was a Sales Tax Officer of the Special Investigation Branch was clearly authorised to make such an inspection and was, therefore, entitled to seize the account books. The account book, as found by both the Courts below, was actually snatched with a jerk (jhatke se chhin liya) out of the hands of Sri Lamgora by Ramesh Chandra when Sri Lamgora wanted to keep it in his possession. An offence u/s 353, Indian Penal Code, has, therefore, been clearly made out against the applicant. He has been rightly convicted. A sentence of six months rigorous imprisonment will, however, serve the ends of justice.

7. The result is that the application in revision against the conviction is dismissed

but the sentence is reduced to a rigorous imprisonment for a period of six months only. The applicant is on bail. He shall surrender to his bail and serve out the reduced sentence.

