

(2005) 07 DEL CK 0128

In the Delhi High Court

Case No : Criminal Revision Petition 105 of 2001

R.K. Mehra

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 28-07-2005

Acts Referred:

Copyright Act, 1957 — Section 63, 65
Penal Code, 1860 (IPC) — Section 120B, 420

Citation : (2005) 123 DLT 355 : (2005) 31 PTC 241

Hon'ble Judges : R.S. Sodhi, J

Bench : Single Bench

Advocate : Shri Singh, for the Appellant; V.K. Malik, for the Respondent

Final Decision : Dismissed

Judgement

R.S.Sodhi, J.—Criminal Revision Petition 105/2001 is directed against the order dated 04.11.2000 of the Metropolitan Magistrate, whereby the learned Magistrate has acquitted the respondents of the charge u/s 63 of The Copyright Act, 1957 and Section 420/120-B of the Indian Penal Code.

2. Brief facts of the case as noted by the learned Metropolitan Magistrate are as follows:-

"...the prosecution has alleged against the accused persons that on receipt of complaint of Shri R.K. Mehra of M.S. Rupa & Co. on 13-9-91 regarding piracy of original literary works of the original author, copyright of which subsisted with the complainant, were being illegally and clandestinely reproduced being sold by M/s Modern Book Depot 22-A/1, Bhola Nath Nagar, Shahdara Delhi in conspiracy with M/s Zed Paper bags, Lawrence Road, Delhi. On this information a raiding party was organized and Mr.Vijay Kumar Sharma was deputed as decoy customer and was asked to purchase five books of PAN BOOKS and COLLINE publishers of U.K. from Modern Book Distributors Bhola Nath Nagar Shahdara Delhi and Rs.150/- i.e. three notes of Rs.50/- each were handed over to the decoy

customer, and Ajay Kumar was sent as shadow witness who was directed to make the signal after test purchase. The shadow witness and decoy witness/customer reached reached the said M/s.Modern Books Distributor and made test purchase of five books namely LOVE HEAD by JACKIE COLLINS, THE OTHER SIDE OF MIDNIGHT, RAGE OF ANGLES, MISSION TO SIENA and BANOO for Rs.100/- which were offered for sale, by accused Vinod Kumar Kalia. After the test purchase appointed signal was given and rest of the raiding party members reached at the spot i.e. at the said shop. Vijay Kumar Sharma, decoy customer produced the said books purchased by him to the I.O. Which were offered for sale to him by accused Vinod Kumar Kalia owner of the said shop. In additional to these, 309 pirated books were also found displayed in the shelves of the said shop for sale.

2. During the course of investigation from the house search of accused M.L.Chauhan, Anis Chauhan of Zed Papers book publishers at 174, Shazada Bagh, Phase -II, Indra Lok, New Delhi, besides copies of pirated books, seven copies of Com, nine copies of A-Stranger in the Mirror, two copies of The Other side of Midnight, one copy of Banco, 14 copies The Almienty, Two copies of Love Head and sixty seven bundles of books "STRICTLY FOR CASH" without binding and negatives of various books as detailed in the seizure memo dt.13-9-91 were found. All the three accused could not produce any valid authority/license assignment deed for sale, display and possession of the said infringed books and negatives.

3. On conclusion of the investigation, charge-sheet was laid before the court. Copies of charge-sheet were furnished to the accused persons. Vide orders dated 15-7-95, charge for the offence punishable u/s 63 of Copyright Act was framed against the accused Vinod Kumar and charge for the offences punishable u/s 63/65 of Copy Right was framed against accused M.L. Chauhan and Anis Chauhan. Both the accused pleaded not guilty and claimed trial."

3. The prosecution in order to prove their case examined six witnesses. Of these, PW-3, Ajay Kumar and PW-4, Vijay Kumar are the decoy and shadow witnesses and PW-6 is Inspector Dhanveer Dutt. PW-5, Rajinder Kumar is the complainant.

4. It is contended by counsel for the petitioner that the trial court has not appreciated the evidence on record while acquitting the accused persons. With his assistance, I have gone through the order under challenge and also the material on record. It appears to me that the learned trial court has given reasons which are cogent for acquitting the accused persons. The trial court has at length dealt with the evidence of PW-3, PW-4 as also PW-5 to arrive at a conclusion. The offence for which the accused persons were charged is not made out.

5. From a perusal of the material on record, I do not find that there is any procedural error which has resulted in flagrant miscarriage of justice. In that view of the matter, I decline to interfere with the judgment under challenge.

6. Crl.Rev.P.105/2001 is dismissed.