
(2017) 04 MP CK 0105
In the Madhya Pradesh High Court
Case No : 1492 of 2016

Shambhudayal Richhariya

APPELLANT

Vs

State of M.P. & others

RESPONDENT

Date of Decision : 10-04-2017

Acts Referred:

[Indian Penal Code, 1860](#), [Section 420](#), [Section 468](#), [Section 471](#), [Section 467](#), [Section 419](#) - Cheating and dishonestly inducing deli

Citation : (2017) 04 MP CK 0105

Hon'ble Judges : Alok Verma

Bench : Single Bench

Advocate : Shadab Khan, Prasanna Bhatnagar

Judgement

1. This criminal revision is directed against the order passed by learned IInd Additional Sessions Judge, Ratlam in Sessions Trial No.63/15 dated 08/11/2016, wherein, learned Additional Sessions Judge framed charges against the applicant under Sections 419, 420, 467, 468 and 471 IPC.

2. Relevant facts for disposal of this criminal revision are that complainant Sadhna Singh is wife of younger brother of husband of present applicant. She filed a written complaint before Police Station - Station Road, Ratlam on 23/05/2006. It was stated in the complaint that she invested Rs.20,000/- in CCP plan of Unit Trust of India (UTI). The present applicant being her sister-inlaw, was shown the guardian of her minor daughter â?? Priyanka Singh. She used to receive the account details each year regularly, however, two years prior to lodging of complaint, such statements were not being received by the complainant, and therefore, she inquired from the office of Unit Trust of India at Indore. There, she came to know that present applicant with the help of her husband Rajendra Singh, opened account in the name of her daughter Priyanka Singh and the present applicant showed herself as mother of the girl and she opened the account in the Post Office bearing No."SB91680". In this account,

she deposited an amount Rs.1,00,000/- that was received in the name of Priyanka Singh as maturity of amount of CCP plan. When, she came to know about this fact and the fact that the present applicant showed herself as natural mother of the child, she lodged a complaint, on which, crime No.455/2006 by police station â?? Station Road was registered under Sections 419, 420, 467, 468, 471 and 406 IPC. After due investigation, charge-sheet was filed.

3. By the impugned order, learned Additional Sessions Judge framed charges under Sections as aforesaid. Being aggrieved by the impugned order, this revision is filed that there is no evidence to show that any deceit was done by the present applicant.

4. The present applicant deposited initially an amount of Rs.20,000/- in CCP plan of Unit Trust of India. Her name was also mentioned as guardian in the records, and therefore, no cheating or deceit was done by her. There was no forgery on the part of present applicant. She signed in her name as Pushpa Singh. It is not the case of complainant or the prosecution that she made signature of the complainant or any other person, and therefore, the documents could not be called forged documents.

5. There is no evidence to show that the present applicant misappropriated the amount received from UTI in the name of Priyanka Singh. It is also taken a ground that the same Judge, who was Chief Judicial Magistrate at Ratlam, signed certain orders in this particular case as Chief Judicial Magistrate and then the case was made over to him as he was promoted to the post of Additional Sessions Judge, and therefore, he was not competent to try the case.

6. Learned counsel for the respondent/State opposed the revision and prays for dismissal of the revision.

7. I have gone through the impugned order. Section 463 IPC defines forgery. Section 464 IPC defines making it false documents. Section 467 IPC relates to forgery of valuable security. Learned Sessions Judge charged the present applicant under an offence for making forged valuable security, however, there is no document, which can be called a valuable security, as the allegations are that the present applicant only opened an account, for which, she signed application form and other documents. But, she signed as Pushpa Singh and not as Sadhna Singh â?? the complainant, and therefore, such documents can not be called forged or false documents. There is no document, which can be called valuable security, on which, the present applicant placed her signature, and therefore, the offence under Section 467 IPC, prima-facie, is not made out. Similarly, the offence under Section 468 IPC is a forgery for the purpose of cheating. When there is no forged documents in this matter, there is also no question of committing forgery for the purpose of cheating and similarly, there is no document whatsoever shown by the charge-sheet, which was used by the present applicant as original one, and which was admittedly forged.

8. In this view of the matter, it is apparent that no forgery was committed by the

present applicant, and therefore, the charges under Sections 467, 468 and 471 IPC are not made out. So far as the charges under Sections 419 and 420 IPC are concerned, prima-facie, the present applicant showed herself as guardian of minor daughter of the complainant Priyanka Singh knowing well that she is not the natural mother. When natural mother, father and guardian are alive, she had no authority to withdraw the amount and to open an account in her name, and therefore, prima-facie, the charges under Sections 419 and 420 IPC are made out.

9. So far as the ground taken by the applicant in the capacity of Judge to try the case because he was also signed certain documents, as Chief Judicial Magistrate is concerned, it is true that on the principle of propriety, the practice is normally followed that cases, which are heard by such Judicial Officers as Court of Magistrates in which some orders before the committal to the Court of Sessions were signed by them as Magistrate. However, this is only a principle of propriety. There is no provision in the Cr.P.C. and due to this, the proceedings are not vitiated only because the Judge in the sessions court is same who heard the matter as Magistrate before committal also. When it is shown that some prejudice is caused to the accused, the case may be transferred to some other court. Therefore, the ground taken by the applicant has no force, at this stage.

10. Accordingly, this revision is partly allowed. The impugned order in respect of charges framed under Sections 419 and 420 IPC is affirmed while the impugned order in respect of charges framed under Sections 467, 468 and 471 IPC are hereby quashed. The present applicant stands discharged from charges under Sections 467, 468 and 471 IPC. The applicant is given a liberty to apply for transfer of the case to some other Court of Sessions, if he feels that the trial by the same court would cause any prejudice to his defence. With the aforesaid, the revision stands disposed of. Certified copy as per rules.