
(1969) 04 SC CK 0065

In the Supreme Court Of India

Case No : Criminal Appeal No. 187 Of 1968

T.B. Thakore

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision : 25-04-1969

Acts Referred:

Citation : (1969) 3 SCC 369

Hon'ble Judges : V. Ramaswami, J;S. M. Sikri, J;R. S. Bachawat, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

V. RAMASWAMI, J.-The appellant (original Accused 7) along with others was charged with conspiracy under Section 120-B of the Indian Penal Code to commit offences of forgery of and uttering counterfeit American dollar bills and 100 rupee Indian currency notes between February 1, 1960 and August 24, 1962 in Greater Bombay, Patan and Umdhra. It was alleged that in furtherance of the conspiracy, they purchased and possessed machinery and instruments or materials for counterfeiting, and also possessed counterfeit notes and dollar bills with the intention of using them as genuine. At the trial Accused 4 and 8 were acquitted of all the charges while the rest of the accused, that is, Accused 1, 2, 3, 5, 6 and 7 were convicted of the charges of conspiracy and the individual charges laid against them and sentenced to various terms of imprisonment. They preferred an appeal to the Bombay High Court which was dismissed. As regards appellant (Accused 7) the High Court set aside the conviction of the charges under Sections 120-B, 489-A, 489-B, 489-C and 489-D IPC and altered the conviction to one under Section 201 IPC and imposed rigorous imprisonment of one year on that charge. The appellant has brought this appeal on a certificate granted by the High Court under Article 134(1)(c) of the Constitution.

2. It appears that Accused 6 was arrested on August 26, 1962. On the next day Accused 3, 4, 5 and 6 were produced before the Judicial Magistrate and they were remanded till August 30, 1962. Inspector Khatras questioned Accused 6

about the printing machine and other materials and Accused 6 gave the name of Accused 7. Inspector Khatras then inquired about the whereabouts of Accused 7 and obtained the necessary information. The police party reached Umdhra at about 7-15 p.m. Accused 6 showed the house of Accused 7 but he was not there. Sub-Inspector Jadhav and two other officers remained at Umdhra. They kept a watch on the house of Accused 7 and waited for him. Accused 6 was taken back to Patan in the evening of August 29, 1962 as his remand period was to expire on the next day. Accused 7 went to Inspector Khatras at about 11 a.m. on August 30. Inspector Khatras interrogated him and asked him where the printing machine was. Accused 7 made a statement to Inspector Khatras which ultimately led to the discovery of the machine. The search was conducted in the presence of two Panchas. Accused 7 took the police and the Panchas inside the compound of his house and dug the spot in the middle of the cattle shed and took out two bundles wrapped in a gunny bag and the third bundle in a small cloth bag. All these articles were taken charge of. The machine, Ex. 122, was then reassembled by Accused 6 and the other articles in the bags were Exs. 142, 163 and 169. Exhibit 141 consists of eight pieces of shapeless papers. Exhibit 142 consists of two pieces of zinc plates. Exhibit 169 consists of the torn gunny bags with papers and small bag and Ex. 168 consists of two machine parts. One of the articles was a roller in damaged condition. The appellant denied that he had made any discovery. He challenged the evidence of Inspector Khatras and the two Panchas. But the High Court accepted the evidence of all the witnesses as true and held that the discovery of the machine was entirely due to the information supplied by the appellant. The view of the High Court was that the evidence against the appellant did not establish the charge of conspiracy but established the offence under Section 201 IPC namely, causing evidence to disappear with intention to having reason to believe that an offence has been committed and with the intention of screening the offender from punishment. The High Court held that the circumstances established that the appellant knew that the machine was used or; intended to be used for the purpose of forging currency notes or that at least he had reasonable belief to that effect.

3. The main question involved in this case is whether Inspector Khatras and two search witnesses had given true evidence with regard to the recovery of the incriminating articles. Both the trial court and the High Court have concurrently held that the evidence of Inspector Khatras and of the two search witnesses is completely reliable. In these circumstances there is no justification for the High Court to grant certificate for leave to appeal under Article 134(1)(c) of the Constitution. It is well-established that under Article 134(1)(c) of the Constitution an appeal lies to the Supreme Court only if there is a substantial question of law involved in the case and which in the opinion of the High Court needs to be settled by a decision of the Supreme Court. There is no justification for certifying a case as being a fit one for appeal to the Supreme Court if the case does not involve any question or principle of law which needs to be resolved by a decision of the Supreme Court. The word "certify" in the Article has a clear

meaning. It requires that when giving the leave to appeal, the High Court must first determine the issue of law which in its opinion is needed to be settled by the Supreme Court and such question must be clearly set out in its order. It is well established that mere grant of certificate by the High Court does not prevent this Court from determining whether it was rightly granted and whether the conditions pre-requisite for the grant of certificates are satisfied (see *Baladin v. State of Uttar Pradesh*¹). It is true that the grant of a certificate under Article 134(1)(c) is a matter in the discretion of the High Court but the discretion is a judicial one and must be judicially exercised on well-established principles which govern such matters (see *Benarai Parshad v. Kashi Krishna Narain*²). It is also necessary that the certificate must show on the face of it that the discretion conferred upon the High Court was invoked and properly exercised. (See *Radhakrishna Ayyar v. Swaminatha Ayyar*³). If the discretion is properly exercised and on well-established and proper lines then as in all questions where an exercise of discretion is involved, there would be no interference except on very strong grounds. In the present case no reasons are given by the High Court in the order granting certificate and as we have already shown the question involved in this case is purely a question of fact and the High Court is not competent to grant the certificate to appeal to this Court under Article 134(1)(c) of the Constitution. The result, therefore, is that the appeal cannot be regarded as properly certified and must fail on that ground alone.

4. It was argued on behalf of the appellant that in any event the appeal may be treated as one granted by special leave under Article 136 of the Constitution. For the reasons we have already given we hold that this is not a fit case of interference under Article 136 of the Constitution and the prayer of the appellant cannot be entertained. The appeal is accordingly dismissed.