

(2013) 07 MP CK 0346

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 468 of 2011

The State of Madhya Pradesh

APPELLANT

Vs

Arif

RESPONDENT

Date of Decision : 22-07-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 378(3)
Penal Code, 1860 (IPC) — Section 120B, 420, 467, 468, 471

Citation : (2013) 07 MP CK 0346

Hon'ble Judges : B.D. Rathi, J;Ajit Singh, J

Bench : Division Bench

Advocate : S.K. Kashyap, for the Appellant;

Final Decision : Dismissed

Judgement

B.D. Rathi, J.—Heard on admission. This is an application for grant of leave to appeal u/s 378(3) of the Code of Criminal Procedure ("Code" for short) against the acquittal the respondents, viz. Arif, Shahid Miya and Rijwan Khan, of the offences punishable under Sections 120B, 420 read with 120B, 467, 468 and 471 of the Indian Penal Code (for short "the IPC"). The impugned judgment dated 29/9/10 was passed by II Additional Judge to the Court of I Additional Sessions Judge, Bhopal in Sessions Trial No. 699/09.

2. Having regard to the arguments advanced by the learned Government Advocate, we have gone through the impugned judgment, whereby the respondents have been acquitted as indicated above.

3. As per the prosecution story, during the period intervening 19/2/08 to 27/3/08, in furtherance of a conspiracy to embezzle the relief amount awarded to gas victims, respondents, by producing a forged and concocted death certificate of one Bano Bi wife of Aziz Hussain before Gas Claims Tribunal No. 6 and declaring themselves to be her legal heirs, obtained sums of Rs. 8333/- and 16,667/-. Written complaint (Ex. P/16) was lodged by Deputy Commissioner of

the Tribunal. First Information Report (Ex. P/19) was registered and after completion of investigation, charge-sheet was filed.

4. Learned Government Advocate, while making reference to the evidence on record, submitted that the trial Court has erred in appreciating the evidence and the judgment of acquittal deserves to be interfered with.

5. Having regard to the arguments advanced by the counsel for the parties, we have gone through the evidence on record.

6. After appreciation of evidence, learned trial Court has held that mother of respondent nos. 1 and 2 namely Bano Bi had died on 22/6/2004 after the death of her husband. After her death, on the basis of proper documentary evidence, death certificate (Ex. D/1) was issued by the Municipal Corporation. It was also held by the trial Court that prosecution has failed to prove that there was any mens rea on the part of respondents to gain financial benefit by the order of the Tribunal.

7. It is well settled that the judgment of acquittal should not be disturbed unless the conclusions drawn on the basis of evidence brought on record are found to be grossly unreasonable or manifestly perverse or palpably unsustainable.

8. Taking into consideration the reasons assigned on the face of evidence on record establishing the aforesaid facts and circumstances, the view taken by the learned trial Court was apparently a possible view. As such, no interference is called for with the order of acquittal in question. The application, therefore, stands dismissed in limine.