
(2020) 02 RAJ CK 0400

In the Rajasthan High Court

Case No : Crml Leave To Appeal No. 138 Of 2019

Tika Ram Gambhir

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 20-02-2020

Acts Referred:

Indian Penal Code, 1860 — Section 447

Scheduled Caste and Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(v)

Limitation Act, 1963 — Section 5

Code Of Criminal Procedure, 1973 — Section

Citation : (2020) 02 RAJ CK 0400

Hon'ble Judges : Vijay Bishnoi, J

Bench : Single Bench

Advocate : G.S. Rathore, S.S. Rajpurohit

Final Decision : Dismissed

Judgement

This criminal leave to appeal has been preferred by the appellant being aggrieved with the judgment dated 26.09.2017 passed by the Special Judge,

SC/ST (Prevention of Atrocities Cases), Udaipur (hereinafter to be referred as the trial court) in Sessions Case No. 16/2012, whereby the

trial court has acquitted the respondent No.2 for the offences punishable under section 447 IPC and Section 3(1)(v) of SC/ST Act.

The present leave to appeal has been filed after a delay of 373 days, however, application under Section 5 of the Limitation Act has been filed by the

appellant with a prayer for condoning the said delay. In the aforesaid application, it is averred that the appellant was not aware about the impugned

judgment as his Advocate did not inform him about the same. It is further averred that the appellant got information regarding the impugned judgment

in September, 2018 only and after that he obtained the necessary documents and thereafter filed the present appeal.

Taking into consideration the averments made in the application under Section 5 of the Limitation Act, the same is allowed. The delay of 373 days in filing this leave to appeal is condoned.

Heard learned counsel for the appellant on merits.

In the year 2012, the appellant has filed a complaint alleging that respondent No.2 had trespassed into his vacate plot situated in Udaipur. The police

after thorough investigation have filed charge-sheet against the respondent No.2 for the offence punishable under Section 447 IPC read with Section

3(i)(v) of SC/ST Act and the trial court has framed charges against him for the aforesaid offences. The prosecution in support of its case, has

produced as many as ten witnesses and also got exhibited twenty documents. Statements of the respondent No.2 under Section 313 Cr.P.C. have

been recorded and the trial court after analyzing the prosecution evidence acquitted the respondent No.2 from the charges framed against him.

The trial court has come to the conclusion that the appellant had purchased the plot in question in the year 1981, however, one Mohammad Ali has

allegedly purchased the said plot from the appellant in the year 1985 and thereafter sold the same to one Mohammad Hussain in the year 1986 and he

thereafter sold the said plot to respondent No.2 on 02.02.2002. The trial court has concluded that though the sale agreement of the year 1985 allegedly

been executed by the appellant in favour of Mohammad Ali was found to be forged but there is no evidence available on record to suggest that

respondent No.2 who purchased the plot in question from one Mohammad Hussain in the year 2002 was aware about the fact that the sale agreement

dated 1985 was forged.

The trial court has also taken into consideration the fact that the appellant himself had admitted that at present, the plot in question is in possession of

the respondent No.2 from a long time. The trial court has, therefore, concluded that respondent-Naresh is a bonafide purchaser and he is in possession

of the plot in question on the day of the incident as per the sale agreement executed by one Mohammad Hussain in his favour in the year 2002. The

trial court has, therefore, concluded that the prosecution has failed to prove the charges against the respondent No.2 for the offence punishable under

Section 447 IPC and read with Section 3(i)(v) of the SC/ST Act.

Having heard learned counsel for the parties and after going through the impugned judgment, I do not find any illegality in the same, hence, no case for grant of this leave to appeal is made out.

Accordingly, this leave to appeal is dismissed.