

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CRML LEAVE TO APPEAL No. 71 of 2006

STATE
V/S
DAYANAND

Mr. HR SONI, PP

Date of Order : 31.7.2006

HON'BLE SHRI N P GUPTA, J.

ORDER

Heard learned Public Prosecutor and perused the impugned judgment.

In my view, the learned Appellate Court has given cogent reasons for acquitting the respondent, Dayanand. Even after close scanning of the record, in my view, it is clear firstly, that the key of the double lock, which was supposed to be with Dayanand, was obtained by breaking open the lock of the Almirah, and there is no sufficient material to show that sufficient opportunity was given to Dayanand to be available, and admittedly, the double lock was opened in absence of Dayanand. Likewise, perusal of the statement of Harphool Singh, the star witness, does also clearly show, that the substantial responsibility part, which was to be discharged by Harphool Singh, has not been done, so much so, that admittedly when the account/details were required to be taken by Harphool Singh, about the amounts withdrawn from the bank, and disbursed, while on

the instant occasion, it is alleged that Harphool Singh did not take the details for good long period of around one month. In this background, significantly, the case of the accused is that he was a fresh employee, having been appointed on compassionate ground on account of his father having died in an accident. The totality of circumstances, in my view, do not establish, that there was any entrustment of the amount to the accused.

So far the allegation about forgery is concerned, admittedly, the documents, said to have been forged, have not been got examined from the Foreignsic Science Laboratory, for comparison of the writing or signature of the accused, with the alleged forged writing or signatures, in absence of which, it could not safely be said that it was the accused, who committed forgery, apart from the fact, that even from the other evidence of the prosecution, as led, in my view, the allegation of forgery is not satisfactorily established.

Thus, considering the case from all stand points, I am at one with the findings of the learned Appellate Court, and do not find any force in the present petition for leave to appeal. The same is, therefore, dismissed summarily.

(N P GUPTA), J.

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