

IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA.

Cr. Appeal No. 482 of 2000

Date of Decision : 28.9.2007

State of H.P.

...Appellant.

Versus:

Santosh Kumar

...Respondent.

Coram:

The Hon'ble Mr. Justice Sanjay Karol, Judge.

Whether approved for reporting?¹ No

For the appellant: Mr. M. A. Khan, Addl. A. G.

For the respondent : None.

Sanjay Karol, J (Oral).

The present appeal arises out of the judgment dated 31.12.1999 passed by the Sub Divisional Judicial Magistrate, Rampur Bushahr, Distt. Shimla, in Criminal Case No. 30-3 of 99, titled as State v. Santosh Kumar, acquitting the accused of the charged offence u/s 33(1)(a) of the Indian Forest Act.

A complaint was filed by the Range Officer, Nankhari Range, Department of Forests, State of Himachal Pradesh that the accused illicitly felled one tree in order to unauthorizedly construct a dhara (shed). Damage report was prepared by the Forest Guard to which the accused appended his signatures in

¹ Whether reporters of Local Papers may be allowed to see the judgment?

presence of the witnesses. Bhadrak C-97 from where the tree was illicitly felled is a demarcated protected forest.

The accused was summoned and after compliance of the provisions of the Code of Criminal Procedure, he was charged for an offence u/s 33(1)(a) of the Indian Forest Act. The accused did not plead guilty and claimed trial.

In all, the prosecution led four witnesses and the statement of the accused u/s 313 Cr.PC was also recorded.

The Court below, after appreciating the evidence on record acquitted the accused of the charged offence on the ground that there was nothing on record to prove that the accused had illicitly cut the tree or that the same was felled from the Government forest.

None of the witnesses S/Shri Nikka Ram (PW-1), Bhim Singh (PW-2), Ishwar Lal (PW-3) and Jinsu Ram (PW-4), have seen the accused cut the tree nor has any tool/appliance with which the tree is alleged to have been felled has been found at the spot. In fact none of the witnesses have seen the accused use the tree for the purposes of constructing the shed. The witnesses are all forest officials and no independent witnesses have been involved and examined in Court.

As per the version of PW-1, PW-3 had sent damage report to the effect that devdar tree IIIrd Class was felled by the accused having a value of Rs.30,000/- as assessed by Shri Bhim Singh (PW-2). PW-2 in his cross-examination has admitted that

neither has he prepared the spot map showing the place from where the tree was felled nor has he got the land demarcated from the revenue officials to show that the land from where the tree was felled was Govt./Forest land.

Shri Ishwar Lal (PW-3) has not supported the case of the prosecution at all except for that the accused had acknowledged his guilt in terms of Ext.PW-3/B. The execution and also signatures on Ext.PW-3/B has been disputed by the accused. There is nothing on record, except for the statements of PW-3 & PW-4 to show that same bears signatures of the accused. No Expert has been examined to prove his signatures on the said document.

In my view, careful scrutiny of the statements of the parties would only show that the prosecution has failed to prove its case beyond reasonable doubt. No case for interference is made out and the present appeal stands dismissed. Bail bonds stand discharged.

(Sanjay Karol), J.

September 28, 2007
(rana)