

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.A No.539 of 2002

Date of decision : April 30, 2009

State of H.P.

...Appellant.

Versus

Ram Pal and others

...Respondents.

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?

For the Appellant : Mr. P.M. Negi, Deputy Advocate General.

For the Respondents : Mr. Onkar Jairath, Advocate.

Surjit Singh, Judge (Oral)

State has appealed against the judgment dated 26th March, 2002, passed by the trial Magistrate, whereby respondents Ram Pal, Surjit Singh, Raj Kumar and Pradeep Kumar, who were tried for offences, punishable under Sections 41 & 42 of the Indian Forest Act, Section 379 of the Indian Penal Code, and Rule 11 & 20 of the Himachal Pradesh Land Route Transit Rules, 1978, have been acquitted.

2. Case of the prosecution, which led to the trial of the respondents, may be summed up thus. A report was lodged on 22nd January, 2000 with the SHO, Police Station, Amb, by PW-9 Anjani Kumar, Range Officer, that on that very day, around 5 a.m., when, on getting a secret information, he accompanied by PW-3 Sucha Singh, PW-8 Piara Singh and two other forest officials, namely Subhash Chand and Joginder Singh, went to a

Whether reporters of the local papers may be allowed to see the judgment?

place called Kuthera Bela, all the four respondents were seen carrying logs of Sheesam and on seeing them they threw the logs and tried to run away. It was further reported that a chase was given to the fleeing respondents and that two of the respondents, namely Ram Pal and Surjit Singh, had been overpowered. Respondents Ram Pal and Surjit Singh were handed over to the police by the abovenamed forest officials.

3. Case was registered, on the basis of the aforesaid report, lodged by PW-9 Anjani Kumar, by means of writing Ex. PW-9/A. The other two respondents were arrested in the course of investigation. They allegedly made disclosure statements that they could point out the exact place where Sheesam tree had been felled. Thereafter, they allegedly took the Investigating Officer to the spot and identified the place of felling a Sheesam tree.

4. During the course of trial, prosecution examined PW-3 Sucha Singh, PW-8 Piara Singh and PW-9 Anjani Kumar, three of the five forest officials, who allegedly caught respondents Ram Pal and Surjit Singh red-handed, to bring the charge home to the respondents. Learned trial Magistrate has disbelieved the prosecution version, with regard to the nabbing of the said two respondents, red-handed, because of contradictions appearing in the testimony of the abovenamed three witnesses.

5. I have perused the record and heard the learned Deputy Advocate General representing the appellant and

Mr. Onkar Jairath, learned counsel representing the respondents.

6. Contradictions noticed by the learned trial Magistrate are not minor. They render the prosecution case highly doubtful. The contradictions pertain to the mode by which the forest officials travelled to the place where the respondents were allegedly spotted, carrying Sheesam logs. While Sucha Singh (PW-3) stated that all of them went by a Maruti car of PW-9 Anjani Kumar, Range Officer, PW-8 Piara Singh stated that some of them went by the car of Anjani Kumar and two of them went by a scooter. PW-9 Anjani Kumar himself stated that they all, including himself, went by two scooters.

7. Also, there are contradictions in the statements of the three witnesses as to the point where they parked their Maruti car and/or scooter(s) and then proceeded on foot to the forest (Bela). One witness has stated that they parked the car at Amb, near a hospital, another stated that it was parked at Kuthera and the third stated that it was parked at Pucca Paroh.

8. Further, there are contradictions in the statements of the three witnesses, whether the two respondents allegedly caught red-handed were taken straight to the Police Station or they were first taken to the Range Office. Two of them stated that they were taken to the Range Office first and from there they were taken to the Police Station, but the third one stated that they were taken straight to the Police Station. Again, there is contradiction as to by what mode the respondents were

taken to the Police Station. Some witnesses say that they were taken on foot from the forest itself, some others say that they were taken by the car of Anjani Kumar (PW-9).

9. Thus, the evidence against respondents Ram Pal and Surjit Singh is quite doubtful and, therefore, I see no reason for interfering with the judgment of acquittal, so far as they are concerned.

10. As regards the other two respondents, suffice it to say that their alleged disclosure statements to the police are not covered, under the provisions of Section 27 of the Indian Evidence Act. The reason is that the alleged disclosure statements did not lead to discovery of any physical fact. Another reason is that even the psychological fact allegedly discovered, at their instance, was already known to the forest officials, as all the three forest officials, examined as witnesses, stated that before taking the respondents to the Police Station, they visited the site where the tree had been felled.

In view of the abovestated position, I see no merit in the appeal. The same is, therefore, dismissed.

April 30, 2009_(sd)

(Surjit Singh), J