

Cr.A. No.1448/2011

31.7.13

As per B.D.Rathi,J

Shri Siddharth Datt, Advocate for the appellant.

Shri Ramakant Patel, Advocate for respondent no.1.

None for respondent no.2.

Shri M.Shafiqullah and Mohd. Riyaz, Advocates for respondent nos. 3 and 4.

Shri Amit Pandey, Government Advocate for respondent no.5-State.

Heard on admission.

This appeal has been preferred under Section 372 of the Code of Criminal Procedure (hereinafter referred to as "the Code") being aggrieved with the judgment dated 10/5/11 passed by III Additional Sessions Judge, Bhopal in Sessions Trial No.296/10, whereby respondent nos. 1 and 2 have been acquitted of the offences punishable under Sections 419, 420 and 467 of the Indian Penal Code ("IPC" for short), and respondent nos. 3 and 4 have been acquitted of the offence under Section 420 of the IPC.

Prosecution case, in brief, is that on 17/3/09, respondent no.1 Dhanveer Singh, dishonestly induced complainant Deewan Singh Rajput to deliver his Indo Farm Tractor on rental of Rs.12000/- per month to respondent no.2 Israel personating him to be Mohan and respondent no.2 Israel, obtained the said Tractor and they handed over the same to respondent nos.3 and 4 viz. Mausam and Aslam, who in turn sold it to one Haji Ayub.

Learned counsel for the appellant, while making reference to the evidence on record, submitted that the learned trial Court has not properly appreciated the evidence on record and the impugned judgment deserves to be interfered with.

In response, counsel for the respondents submitted that the respondents had been falsely implicated and the judgment of acquittal was well merited.

Having regard to the arguments advanced by the parties, we have gone through the impugned judgment and evidence on record.

The Tractor in dispute bearing Registration No. MP-04-LA-9663, Engine No.241064C and Chasis No. E-M-S-35001094EP, was in the ownership of complainant Diwan Singh. Diwan Singh had deposed that the Tractor was given on rent to one Mohan before his

wife, who knew him, but his wife has not been examined to corroborate the allegation of impersonation. Signatures of respondent no.2 as Mohan Singh on rent note (Ex.P/5, were not proved by the prosecution. Registration number of Tractor, Engine and Chasis Numbers, as mentioned in the rent note /agreement, were altogether different from those of tractor in dispute. Vishal Singh (PW3) deposed in his evidence that the factum of impersonation had come into the knowledge of complainant within a month from the date of incident, but even then First Information Report, was not lodged and the same was lodged after 7 to 8 months without any explanation for delay. It was also admitted by the complainant that he was not able to regularly pay the installments of loan given by the Bank for purchasing the said Tractor and was under an impression that the same was seized by the Bank and had also contacted the Bank for verifying the same. On the aforesaid premises, the trial Court discarded the case of the prosecution.

We agree with the findings recorded by the trial Court.

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.

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 appeal, being devoid of merit and substance, stands dismissed.

(AJIT SINGH)
JUDGE

(B.D.RATHI)
JUDGE