

ITEM NO.1A

COURT NO.3

SECTION IIB

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 1837/2014 @ SLP(Cr1.) No. 2331 of 2014

BISHAN DASS

Appellant(s)

VERSUS

STATE OF PUNJAB AND ANR.

Respondent(s)

Date : 26/08/2014 This matter was called on for pronouncement of judgment today.

For Appellant(s) Mr.Shree Pal Singh, Adv.

For Respondent(s) Mr. Kuldip Singh, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Hon'ble Mrs. Justice R.Banumathi pronounced Judgment of the Bench comprising Hon'ble Mr. Justice T.S.Thakur and Her Ladyship.

Leave granted

The appeal is disposed of in terms of the signed Non-reportable judgment.

(Shashi Sareen)

Court Master

(Signed Non-reportable judgment is placed on the file)

(Veena Khera)

Court Master

Non-Reportable

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1837 OF 2014
(Arising out of S.L.P. (Crl.) No. 2331/2014)

BISHAN DAS

.. Appellant

Versus

STATE OF PUNJAB AND ANR.

..Respondents

ORDER**R. BANUMATHI, J.**

Leave granted.

2. This appeal is preferred against the judgment of Punjab and Haryana High Court dated 18.12.2013 passed in Criminal Revision No. 3982/2013 confirming the conviction of the appellant under Sections 420 and 177 IPC as ordered by the Appellate Court.

3. The case of the prosecution in brief is that the appellant was Sarpanch of Gram Panchayat, Baurhi. The charge against the appellant is that the appellant had knowingly issued a false

certificate in favour of Lal Chand that he did not own any property except the land which he had made fit for cultivation, though Lal Chand had owned 13 kanals and 13 marlas of land situated in village Baruhi and his wife owned 70 kanals of land in village Baruhi. Based on the said false certificate pretending to be the landless person, Lal Chand sought allotment of land and on the basis of the certificate, land was allotted to Lal Chand. The appellant along with the co-accused Lal Chand was charged for the offences under Sections 420, 465, 467, 468, 471 and 120B IPC and the trial court convicted the appellant for the aforesaid offences and imposed various sentences *inter alia* two years rigorous imprisonment for the offence under Section 420 IPC.

4. In the appeal, the Addl. Sessions Judge, Hoshiarpur, set aside the conviction of the appellant under Sections 465, 467, 468, 471 and 120B IPC but convicted the appellant for the offences under Sections 420 and 177 IPC and sentenced him to undergo rigorous imprisonment of one year and six months respectively and ordered them to run concurrently. In the revision preferred before the High Court, the High Court has upheld the conviction and sentence of the appellant as aforesaid.

5. We have heard the learned counsel for the parties. The point falling for consideration is whether the conviction and sentence

of the appellant under Sections 420 and 177 IPC is sustainable.

6. Section 177 IPC deals with giving of false information. The ingredients of Section 177 IPC are :-

(i) That a person must be legally bound to furnish information on a particular subject to a public servant.

(ii) That he must furnish, as true, information on that subject which he knows or has reason to believe to be false.

7. The appellant being a Sarpanch of Gram Panchayat was legally bound to give correct information and bound to issue a correct certificate. Though Lal Chand owned 13 kanals 13 marlas and his wife also owned lands in village Baruhi, the appellant issued false certificate in favour of Lal Chand that he does not own any land except the land which he has made fit for cultivation and thus furnished the information which he knew to be false. Based on the revenue records, the trial court recorded factual findings that Lal Chand and his wife totally owned 83 kanals 14 marlas of land. The appellant knowingly issued the false certificate in favour of Lal Chand containing false information and the ingredients of Section 177 IPC are proved and we find no reason to interfere with the conviction of the appellant under Section 177 IPC.

8. In so far as the conviction of the appellant under Section 420 IPC, is concerned, the appellate court convicted the appellant under Section 420 IPC, on the finding that the appellant issued the certificate in favour of Lal Chand with dishonest intention of getting allotment of land for the said Lal Chand and by getting the allotment, the same was also achieved.

9. The essential ingredients to attract Section 420 IPC are : (i) cheating; (ii) dishonest inducement to deliver property or to make, alter or destroy any valuable security or anything which is sealed or is capable of being converted into a valuable security and (iii) mens rea of the accused at the time of making the inducement. There is no evidence to show that there was such fraudulent dishonest intention on the part of the appellant in issuing certificate in favour of Lal Chand. Issuance of false certificate cannot be said to be with dishonest intention to make wrongful gain for himself. Since the ingredients of Section 420 IPC are not proved, the conviction of the appellant under Section 420 IPC, cannot be sustained and the same is set aside.

10. For conviction under Section 177 IPC, the appellate court has awarded the sentence of imprisonment of six months which was confirmed by the High Court. It was submitted that allotment of land to Lal Chand was also cancelled, which, in our view has to be taken

into consideration while considering the question of sentence imposed on the appellant. The appellant is said to have already undergone the sentence for a period of 5^{1/2} months. For the conviction under Section 177 IPC, the sentence of imprisonment imposed on the appellant is modified to the period already undergone. The appellant is on bail, his bail bonds shall stand discharged. The appeal stands disposed of accordingly.

.....J.
(T.S. Thakur)

.....J.
(R. Banumathi)

New Delhi,
August 26, 2014

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