



श्रीलङ्क-२०/१२

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Case Crime No. 22/2000, under Section 193, 195, 196, 420, 467, 468, 471, 409, 120B, IPC and Section 13(2) Prevention of Corruption Act, read with Section 13(1)(D) and 13(1)(C) Prevention of Corruption Act, Police Station Bisalpur, District Pilibhit, Special Sessions Trial No. 31/ 2007 (State of U.P. Versus Hriday Narayan Singh and others), connected with Special Sessions Trial No. 01/2008 (State of U.P. Versus Ram Achal Chaurasiya and others).

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPELLATE JURISDICTION

Government Appeal No. 4258 of 2016
(Under Section 378 of the Criminal Procedure Code)

Boreilly
(DISTRICT: ~~PILIBHIT~~)

On behalf of: _____ Appellant
State of U.P.

VERSUS

1. Hriday Narayan Singh S/o Sri Kalika Singh, Resident of village Bhala, Police Station Nonhara, District Ghazipur, The then Avar Abhiyanta, Sharda Nahar Pranali, Bilsanda situated at Bisalpur, District Pilibhit.
2. Arvind Singh S/o Sri Bheemshanker Singh, Resident of village Umarra, Police Station Sehramau, District Unnao, The then Sahayak Bhumi Sanrakshan Nirikshak, Bilsanda, situated at Bisalpur, District Pilibhit.
3. Murari Lal Gautam S/o Sri Bihari Lal Gautam, Resident of House No. 230/24, Mohalla Chandralok Colony, Near Bansal Tent House, Krishna Nagar, Police Station Kotwali Nagar, District Mathura, the then Sahayak Bhumi Sanrakshan Nirikshak, Bilsanda, situated at Bisalpur, District Pilibhit.
4. Mahendra Nath Chaubey S/o Sri Mritunjay Chaubey, Resident of village Deochandpur, Police Station Saidpur, District Ghazipur, The then Sahayak Bhumi Sanrakshan Nirikshak, Bilsanda, situated at Bisalpur, District Pilibhit.
5. Ram Achal Chaurasiya S/o Sri Jiyaban Chaurasiya, Resident of village Darua, Police Station Saijanwa, District Gorakhpur, The then Sahayak Bhumi Sanrakshan Nirikshak, Sharda Nahar, Pranali, Bilsanda, situated at Bisalpur, District Pilibhit.
6. Mewa Lal Verma S/o Baburam, Resident of village Chandanpur, Police Station Maharajganj, District Faizabad, the then Sahayak Bhumi Sanrakshan Nirikshak, Bilsanda, situated at Bisalpur, District Pilibhit.

- 7. Ishtiyak Khan son of Sri Mumtaz Khan,
Resident of village Qasba and Police Station Deoriya, District Pilibhit.
- 8. Samiullah Khan son of Sri Nanhey Khan,
Resident of Nai Basti, Gyaspur, Qasba and Police Station Bisalpur,
District Pilibhit.

-----Accused-Respondents.

Till the time of drafting the present government appeal the complainant has filed/not filed the criminal appeal (under Section 372 of Cr.P.C.) against the judgment and order of acquittal dated 01.04.2016 passed by Sri Shiv Kumar Singh, learned Additional Sessions Judge/ (Prevention of Corruption Act), Court No. 2, Bareilly, passed in Special Sessions Trial No. 31 of 2007 (State of U.P. Versus Hriday Narayan Singh and others) and Special Sessions Trial No. 01.of 2008 (State of U.P. Versus Ram Achal Chaurasiya and others).

Vibhuti Kumar
18/10/16

Under Section 196, 197, 409, 420, 467, 468, 471, 477A, 120-B IPC & Section 13(1) (C) and 13(1)(D) read with Section 13(2) Prevention of Corruption Act.

Appeal on behalf of the State of U.P. is being preferred against the impugned judgment and order of acquittal of the accused-respondents dated 01.04.2016 passed by Sri Shiv Kumar Singh, learned Additional Sessions Judge/ (Prevention of Corruption Act), Court No. 2, Bareilly, passed in Special Sessions Trial No. 31 of 2007 (State of U.P. Versus Hriday Narayan Singh and others) and Special Sessions Trial No. 01 of 2008 (State of U.P. Versus Ram Achal Chaurasiya and others), on the following amongst other grounds:-

GROUNDS

- 1. Because, the learned trial court has not properly appreciated the evidence of the prosecution and has decided the case only on the basis of conjectures and surmises.
- 2. Because, the judgment and order of acquittal of accused respondents is illegal and erroneous.
- 3. Because, the impugned judgment and order of the acquittal of the accused-respondents is perse illegal, unjustified and bad in the eyes of law.
- 4. Because, the prosecution has fully proved its case and the Court below has committed gross illegality in acquitting the accused-respondents.

Court No. - 37

Case :- GOVERNMENT APPEAL No. - 4258 of 2016

Appellant :- State Of U.P.

Respondent :- Hriday Narayan Singh And 7 Others

Counsel for Appellant :- Akhilesh Singh

Hon'ble Vikram Nath, J.

Hon'ble Manoj Kumar Gupta, J.

Heard Sri Vimlendu Tripathi, learned AGA for the State appellant.

The Additional Sessions Judge/Special Judge (Prevention of Corruption Act), Court No.2, Bareilly vide judgement and order dated 1.4.2016 passed in Special Sessions Trial No.31 of 2007 (State of U.P Vs. Hriday Narayan Singh and others) and connected Special Sessions Trial No.01 of 2008 (State of U.P. Vs. Ram Achal Chaurasiya and others) has recorded acquittal against all the 8 appellants of the charges under Sections 196, 197, 409, 420, 467, 468, 471, 477A, and 120-B IPC and Section 13 (1)(C) and 13 (1)(D) read with Section 13 (2) of the Prevention of Corruption Act.

We have gone through the judgement of the court below and we find that the conclusion of acquittal arrived at is primarily based on the following findings:-

Firstly, the prosecution did not lead evidence to prove the recovery of substandard bricks said to have been supplied, secondly, 8 out of 24 witnesses turned hostile and thirdly and most importantly that the witnesses of fact from serial no.9 to 24 examined by the prosecution were found to be minors at the time when the offence is alleged to have been committed considering their present age and the time when the offence is said to have been committed.

On a careful perusal of the judgment and record, it cannot be said that the view taken by the trial judge is perverse or unreasonable. Simply because another view might have been taken of the evidence provides no ground for interfering with the order of acquittal unless the view taken by the trial judge is not a possible view. On the evidence available on record, it cannot be said that the view taken by the trial judge was not a reasonably possible view.

In this view of the matter, there is no merit in the application for leave to appeal which is rejected and consequently, the Government Appeal is also dismissed.

Order Date :- 5.9.2016

SL

Sd/- Vikram Nath, J.

Sd/- Manoj Kumar Gupta, J.

En-ly
Vishvate Kumar
18/10/16

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Section Officer
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