

â:IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1529 OF 2011

HIRA SINGH ... Appellant

VERSUS

STATE OF H.P. ... Respondent

O R D E R

The appellant herein, along with certain accused persons, was charged for offence under Section 379, 420, 467, 468, 471 and 120B of the Indian Penal Code, Sections 41 and 42 of the Indian Forest Act and Section 5(2) of the Prevention of Corruption Act, 1947. Charge under Prevention of Corruption Act was made because of the reason that some of the accused persons were public servants. The allegations against these accused persons, including the appellant, were that they had forged the documents, affidavits, etc., of some of the land owners and on the basis of those forged documents, had committed theft of forest trees/ produce. The charge was, thus, of forgery of documents and on the basis of such forged documents commission of theft.

Two points which were formulated by the trial court on the basis of the aforesaid prosecution case against the accused persons would demonstrate the nature of charge against them and these are as under: -

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â- S POINT NO. 1

Whether the prosecution proves that during the years 1981-82 under Forest Division, Chopal the partners-accused of M/S Him Giri & Co. in connivance and in criminal conspiracy with the forest, revenue and railway accused forged the applications and affidavits of some of the land owners namely; Surat Ram (PW-31), Het Ram, Smt. Kamla Devi (PW-9), Smt. Kalu Devi (PW-72), Mangu Ram (PW-18), Savitri Devi (PW-71), Jia Lal, Mohi Ram, Rupi Devi (PW-64), Smt. Kewla Devi (PW-7), Mangla Dhian Singh, Smt. Kanwari (PW-59), Smt. Kahani, Smt. Ghindi (PW-19) and Smt. Kewala and as such the aforesaid persons are guilty of the offences under Sections 120-B, 467, 468 and 471 of the Indian Penal Code?

POINT NO. 2:

Whether the prosecution proves that during the period 1981-82 under Forest Division, Chopal, partners-accused, namely, late Nikka Ram Mehta, Rai Singh, Hira Singh and late Balak Ram, in connivance and in criminal conspiracy with the revenue accused after procuring forged applications and affidavits of the aforesaid private land owners and on the basis of wrong demarcation carried out by revenue-accused Gairu Ram and Hari Dass got prepared wrong marking lists and illicitly cut and removed as many as 215 trees from the Govt. Forest comprising in Khasra Nos. 672, 943, 918, 65/1, 556/1, 552/2, 803/945, 790/1, 916/748, 260/1, 468, 1416/1390/1/1 and 295 falling under the Forest Division, Chopal, without the consent of State Govt. and thereby the aforesaid accused persons are guilty of the offences under Sections 120-B, 379, 218 of the Indian Penal Code and Section 33 of the Indian Forest Act?

As is clear from the aforesaid, insofar as the charge of forgery of documents is concerned, for which these accused persons were guilty of offences under Sections 467, 468, 471 read with 120B of the Indian Penal Code, it was alleged that the accused persons, in connivance and in criminal conspiracy with Forest, Revenue and Railway officials, forged the

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applications and affidavits of some of the land owners (names of these land owners are specifically given). There are 15 such persons who were named as land owners and whose applications and affidavits were allegedly forged by the accused persons. As mentioned above, although 15 persons are specifically named as land owners, name of Hari Chand is not stated therein. As far as point No. 2 is concerned, it again states that after forging the applications and affidavits of the land owners (which would obviously include those land owners whose names are mentioned in point No. 1), the accused persons committed the offence of theft and, therefore, it was punishable under Sections 379 and 218 of the Indian Penal Code as well as Section 33 of the Indian Forest Act. After the conclusion of the trial, the trial court acquitted the accused persons of all the charges. Even in respect of the appellant, the trial court held that no such charge was proved. The State preferred appeal against the aforesaid judgment of acquittal rendered by the trial court. The High Court has maintained the verdict of acquittal insofar as other accused persons are concerned. However, in the case of the appellant, it has convicted him of charge under Section 468 and 471 of the Indian Penal Code (acquittal in respect of other parties is maintained by the High Court) on the ground that he has submitted forged applications of one land owner, viz., Hari Chand. From the facts noted and explained above, it is clear

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that the accused persons including the appellant were accused of committing forgery by fabricating documents, applications and affidavits of land owners who were 15 in number but the name of Hari Chand was not there at all. It is, therefore, apparent that there was no charge against the appellant for forging the documents pertaining to land owner Hari Chand. When there was no such charge, the High Court could not have gone beyond and on that basis convict the appellant. It is, thus, clear that the impugned judgment of the High Court is in excess of jurisdiction, which cannot be sustained. This appeal is, accordingly, allowed and the judgment of the High Court is set aside. Bail bonds furnished by the appellant stand discharged.

....., J.

[A.K. SIKRI]

....., J.

[R.K. AGRAWAL]

New Delhi;

March 10, 2016.

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ITEM NO.101 COURT NO.11 SECTION IIB
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No. 1529/2011

HIRA SINGH

Appellant(s)

VERSUS

STATE OF H.P.

Respondent(s)

Date : 10/03/2016 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI

HON'BLE MR. JUSTICE R.K. AGRAWAL

For Appellant(s)

Mr. K. V. Vishwanathan, Sr. Adv.

Mr. T . V. Ratnam, Adv.

Mr. Ashish Dogra, Adv.

For Respondent(s)

Mr. Varinder Kumar Sharma, Adv.

Mr. Varun Thakur, Adv.

Mr. Pawan Verma, Adv.

UPON hearing the counsel the Court made the following

O R D E R

The appeal is allowed in terms of the signed order.

(Nidhi Ahuja) (Tapan Kr. Chakraborty)

Court Master Court Master

[Signed order is placed on the file.]