

Joti Parshad vs State Of Haryana on 20 October, 1992

Equivalent citations: AIR1993SC1167, 1993CRILJ413, 1992(3)CRIMES756(SC), JT1992(6)SC94, 1992(3)SCALE42, 1993SUPP(2)SCC497, AIR 1993 SUPREME COURT 1167, 1993 AIR SCW 224, 1993 CRIAPPR(SC) 85, 1993 SCC(CRI) 691, 1993 (2) SCC(SUPP) 497, (1992) 6 JT 94 (SC), 1992 CRILR(SC MAH GUJ) 747, 1993 (1) UJ (SC) 236, (1992) 2 ANDHWR 96, (1992) 3 CRIMES 756, (1992) ALLCRIR 658, (1993) EASTCRIC 57, (1993) 1 ORISSA LR 81, (1993) 1 RECCRIR 554, (1992) 3 CURCRIR 405, (1993) ALLCRIC 101, (1993) 2 CHANDCRIC 27, (1992) 3 ALLCRILR 552, (1993) 1 CURLJ(CCR) 216

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Bench: G.N. Ray

ORDER

K. Jayachandra Reddy, J.

1. The sole appellant herein was tried along with five others for offences punishable under Sections 254, 255, 258, 259, 467 read with 120-B I.P.C. The gravamen of the charge was that all of them conspired and agreed to do the illegal act of counterfeiting of Government stamps and in pursuance of that conspiracy, counterfeited Government stamps and sold the same and they were also found in possession of the counterfeit stamps and some of them were found in possession of instruments and other materials intended to be used for the purpose of counterfeiting stamps. The trial court acquitted all of them. The State preferred an appeal. The High Court while confirming the acquittal of other accused, however, convicted the appellant Joti Parshad under Section 258 and 259 I.P.C. and sentenced him to undergo three years' R.I. and a fine of Rs. 500/- on each count and in default of payment of fine to undergo further R.I. for three months on each count, on the ground that the prosecution proved that the appellant had been selling counterfeit court-fee stamps and while doing so he had knowledge or atleast reason to believe that the said stamps which he was selling were is counterfeit. The sentences were directed to run concurrently. The facts that give rise to this appeal are as follows:

Shri M.G. Devashayam, who was working as S.D.M., Jagadhari, noticed on 26th July, 1972 that some counterfeit court-fee stamps had been used on some court papers. He immediately conducted a raid and searched the box containing judicial and non-judicial stamps belonging to the appellant who was a licensed stamp vendor.

Shri Devashyam seized them under a memo and then sent a letter to the police station for registration of a case. P.W. 15 the Inspector registered the case and took up the investigation. On the same day he recorded the statement of the appellant wherein he is alleged to have stated that some of the other accused belonging to Dehradun had been selling counterfeit court-fee stamps to him at Jagadhari and if their houses are searched, such stamps could be recovered. P.W. 15 reached Dehradun the next day and interrogated Rajeshwar, A-2 and recorded his statement and at his instance recovered a large number of stamps. P.W. 15 also recorded the statements of other accused and effected some recoveries under some memos. After completion of the investigation the charge-sheet was laid. The prosecution charge-sheeted 10 accused. Additional Sessions Judge, Ambala, however, discharged four of them as no prima facie case was made out against them. The remaining six accused were tried by the Additional Sessions Judge. The prosecution examined several witnesses. The plea of the accused had been one of denial. For the purpose of the present case we are not concerned with that part of the prosecution case against A-2 to A-5 whose acquittal has been confirmed by the High Court. So far the present appellant is concerned he took the plea that he was a petty stamp vendor at Jagadhari and he was arrested on mere suspicion and that he purchased all the stamps judicial as well as non-judicial from the treasury at Jagadhari for sale to the public and that he had no link or any connection with the other accused. The trial court acquitted all the accused mainly on the ground that P.W. 11 Madan Lai had been appearing as a police witness in a number of cases and that his antecedents are questionable and many of the seizures based on his evidence cannot be accepted. Before the High Court the same plea was taken by all the accused. The Division Bench of the High Court agreed with the reasoning of the trial court so far as the other accused are concerned and confirmed their acquittal. However, the case regarding the recovery of counterfeit stamps from the possession of the appellant was accepted mainly on the basis of the evidence of P.W. 1 Shri M.G. Devashayam, S.D.M. The appellant specifically admitted the recovery but took the plea that he had purchased all the stamps from the treasury at Jagadhari as genuine stamps. The stamps recovered from the appellant were sent to the Stamp Expert at Nasik. P.W. 14, the Stamp Expert examined the same and identified the various court-fee stamps of various denominations which had been counterfeited. His evidence coupled with the report Ex.P.W. 14/A established beyond any shadow of doubt that some of the stamps recovered from the appellant were counterfeit ones. The appellant also admitted in his statement under Section 313 Cr.P.C. that he had been selling those stamps but his plea was that he purchased them as such from the treasury thereby indicating that officers connected with the treasury who sold those stamps to him must be held to be responsible and that the appellant had neither knowledge nor any reason to believe that they were counterfeit stamps. Therefore, he is not liable for any penal action. The High Court taking into consideration the circumstance that counterfeit stamps were recovered from the appellant concluded that the appellant had knowledge or reason to believe that the stamps which he had been selling were counterfeit ones and accordingly found him guilty as stated above.

2. Chapter XII of the Indian Penal Code deals with the offences relating to coins and government stamps. Sections 255 to 263-A I.P.C. in this Chapter deal with offences relating to government stamps. For the purpose of present case we are concerned only with Sections 258 and 259 and they are in the following terms:

258. Sale of counterfeit Government stamp - Whoever sells, or offers for sale, any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. 259. Having possession of counterfeit Government stamp. Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by the Government for the purpose of revenue, intending to use, or dispose of the same as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Section 258 lays down that whoever sells or offers for sale any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by the Government shall be liable for punishment. Section 259 deals with possession of such counterfeit Government stamps with the knowledge of their being counterfeit stamps and with intention to use or dispose of the same as genuine stamps.

3. The possession and sale of various counterfeit stamps by the appellant who was a stamp vendor is beyond dispute. Then the important question is whether he had knowledge or reason to believe that the stamps which he had in possession and was selling, were counterfeit of the stamps issued by the Government.

4. Under the Indian penal law, guilt in respect of almost all the offences is fastened either on the ground of "intention" or "knowledge" or "reason to believe". We are now concerned with the expressions "knowledge" and "reason to believe". "Knowledge" is an awareness on the part of the person concerned indicating his state of mind. "Reason to believe" is another facet of the state of mind. "Reason to believe" is not the same thing as "suspicion" or "doubt" and mere seeing also cannot be equated to believing. "Reason to believe" is a higher level of state of mind. Likewise "knowledge" will be slightly on higher plane than "reason to believe". A person can be supposed to know where there is a direct appeal to his senses and a person is presumed to have a reason to believe if he has sufficient cause to believe the same. Section 26 I.P.C. explains the meaning of the words "reason to believe" thus:

26. "Reason to believe" - A person is said to have "reason to believe" a thing, if he has sufficient cause to believe that thing but not otherwise.

In substance what it means is that a person must have reason to believe if the circumstances are such that a reasonable man would, by probable reasoning, conclude or infer regarding the nature of the thing concerned. Such circumstances need not necessarily be capable of absolute conviction or inference; but it is sufficient if the circumstances are such creating a cause to believe by chain of

probable reasoning leading to the conclusion or inference about the nature of the thing. These two requirements i.e. "knowledge" and "reason to believe" have to be deduced from various circumstances in the case. In the context of the circumstances obtaining in the instant case namely that the appellant admittedly was a licensed stamp vendor and he was found in possession of counterfeit stamps, the explanation of the accused also becomes relevant and important in assessing and appreciating whether he had such knowledge or reason to believe that the stamps were counterfeited. Admittedly he used to purchase stamps from the treasury and all such transactions are duly recorded in the official registers. There is absolutely no material whatsoever to show that the counterfeit stamps were in fact purchased by him from the treasury. A bare allegation by way of an explanation by the accused-appellant that he purchased all the stamps including the counterfeit ones from the treasury appears on the face of it to be false, as he has neither produced registers maintained by him nor did he make even an effort to summon the treasury records. There is no material whatsoever even to probablise such a plea. In these circumstances the only inference that can be drawn is that he had "knowledge" and "reason to believe" that the stamps which he had in his possession and which he was selling or offering to sell, were counterfeit ones. These ingredients of the two provisions of law are fully established. Therefore the convictions are correct. The offence also is a serious one and the sentence awarded is not excessive. The appeal is therefore dismissed.