

Kanchansingh Dholaksingh Thakur vs State Of Gujarat on 9 February, 1979

Equivalent citations: AIR1979SC1011, 1979CRILJ889, (1979)4SCC599, 1979(11)UJ551(SC), AIR 1979 SUPREME COURT 1011, 1979 4 SCC 599, 1979 UJ (SC) 551, (1979) MAD LJ(CRI) 589, (1979) 2 SCJ 260

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Bench: A.D. Koshal, S. Murtaza Fazal Ali

JUDGMENT

S. Murtaza Fazal Ali, J.

1. In this appeal by special leave the appellant has been convicted under Section 5(2) of Prevention of Corruption Act and Section 467, 471 and 477A of the Indian Penal Code and sentenced to one year's rigorous imprisonment under each count and also sentenced to a fine of Rs. 100/ as mentioned in the High Court judgment. The sentences have been ordered to run concurrently. A detailed narrative of the prosecution case has been given in the judgment of the High Court which has gone into minute details. A perusal of the judgment of the High Court clearly shows that almost the entire part of the prosecution case has not been accepted by the High Court and conviction of the appellant has been based mainly on entry A 18 from which it appears that the appellant had misappropriated a sum of Rs. 1750/-. It was also alleged that the appellant forged the signature of Raman Bhai on various dates to show payment of Rs. 2.50 although these payments were not made to Raman Bhai at all. The position is that the entire conviction rests on the uncorroborated testimony of the Expert P.W Acharya. The High Court has clearly found that the expert had opined in case of even those persons who admitted to have signed in token of the payment that the signature of these witnesses was forged. This is a most extraordinary situation because when the witnesses testified on oath that they had signed the Register and the signature shown to them were their own how could the expert say that the signature was forged. At any rate the expert's opinion does not appear to be reliable for this reason. Once it is proved that the appellant had not forged his signature on the entries concerned in Exh. 18 on which the entire case of the prosecution is based, there is no legal evidence to prove either the charge of misappropriation or use of forged document or the charge of corruption or allegation of forgery. While this contention was specifically raised before the High Court by the counsel for the appellant the High Court does not appear to have given an satisfactory explanation for this. It is well settled that in order to rely on the evidence of an expert the Court must be fully satisfied that he is a truthful witness and also a reliable witness fully adopt in the art of identification of hand-writing in order to opine whether the alleged hand-writing has been made by a particular person or not. As the evidence of the expert has been disbelieved by the High

Court on the most material points, we find it wholly unsafe to base the conviction of the appellant merely on the testimony of the expert.

2. Apart from this there is yet another circumstances that throws a serious doubt on the complicity of the appellant. Even according to the prosecution case, apart from the appellant, there were other officers also who were entrusted with the task of organizing rallies and paying monies to the persons who attended the same for their meals. The possibility that the signature in Exh. A 18 might have been forged by one of these officers and not the accused has not been excluded by the prosecution. In this view of the matter we are satisfied that the prosecution has not proved its case against the appellant beyond reasonable doubt. In the result the appeal is allowed, the conviction and sentence passed on the appellant are set aside and the appellant is acquitted of the charges framed against him. The appellant will now be discharged from his bail bonds.