M. Mammutti vs State Of Karnataka on 15 February, 1979

Equivalent citations: AIR1979SC1705, 1979CRILJ1383, (1979)4SCC723, 1979(11)UJ271(SC), AIR 1979 SUPREME COURT 1705, 1979 UJ (SC) 271, 1979 BBCJ 54, 1979 CHANDLR(CIV&CRI) 196, 1979 (4) SCC 723

Author: S. Murtaza Fazal Ali

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

JUDGMENT

S. Murtaza Fazal Ali, J.

1. The appellant has been convicted in this appeal under Sections 489-B and 489-C and has been sentenced to R. I. for one year and to R. I. for six months respectively and fine of Rs. 500/-. The sentences have been directed to run concurrently. The learned Counsel appearing for the appellant has stated that it is true that the appellant was found in possession of a counterfeit two rupee notes and the accused handed over the note to a friend to purchase a ticket for a circus show. The booking clerk on seeing the note got suspicious. He immediately informed the Sub-Inspector of Police and on search of the appellant 99 two rupee notes were recovered. The appellant in his statement under Section 342 stated that two days ago he sold three quintals of tamarind fruits to a person whom he did not know and that person gave him a sum of Rs. 390/-. These currency notes have been given to him by the purchaser. He also said that he did not know that these currency notes were counterfeit and he came to know that these currency notes were counterfeit and he came to know of it for the, first time whom he was interrogated by the police. There is no evidence of any witness to show that the counterfeit notes were of such a nature or description that a mere look at them would convince any person of average intelligence that it was a counterfeit note. Nor was any such question put to the accused under Section 342 Cr. PC. The High Court has affirmed the judgment of the learned Sessions Judge on the ground that in his statement under Section 342 made before the committing Court the accused has made a statement different from that made in the Sessions Court and therefore the appellant had reason to believe that notes in his possession were counterfeit notes. Here the High Court is not correct because even in the statement before the Committing Court in Ex. P. 13 which appears at P. 154 of the paper book, the appellant has stuck to the same statement which he made before the Sessions Court that he had sold three quintals of tamrind fruits and from the purchaser he received a sum of Rs. 390/- in two rupee notes. We are not able to find any inconsistency between the answer given by the accused in his statement under Section 342 before the Sessions Judge and that before the Committing Court specially on the point that the appellant had the knowledge or reason to believe that the notes were counterfeit. Mr. Neitar submitted that once the appellant is found in possession of counterfeit notes, he must be presumed to know that the notes ate counterfeit. If the notes were of such a nature that mere look at them would convince

anybody that it was counterfeit such a presumption could reasonable be drawn. But the difficulty is that the prosecution has not put any specific question to the appellant in order to find out whether the accused knew that the notes were of such a nature. No such evidence has been led by the prosecution to prove the nature of the notes also, In these circustances, it is impossible for us to sustain the conviction of the appellant. For these reasons, therefore, the appeal is allowed, conviction and sentences passed on the appellant are set aside, and the appellant is acquitted of the charges framed against him.