



[NON-REPORTABLE]

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.3398/2024

VIMALAKKA RAMAPPA KOLI @ TALWAR

Appellant(s)

VERSUS

THE STATE OF KARNATAKA

Respondent(s)

JUDGMENT

ABHAY S.OKA, J.

FACTUAL ASPECTS

1. The appellant-accused was prosecuted for the offences punishable under Sections 196, 198, and 420 of the Indian Penal Code, 1860 (for short, 'the IPC'). The allegation of the prosecution is that on an application made by the appellant on 9th September, 2022 to the competent authority falsely claiming that she belongs to Hindu Holer Caste, which was a Scheduled Caste, a caste certificate was issued stating that she belongs to Hindu Holer Caste. Based on the caste certificate, the appellant applied for a grant of a loan to Karnataka Scheduled Caste and Scheduled Tribe Development Corporation Limited, Belgaum and the loan was granted. Later on, the certificate was scrutinized by the District Caste Verification Committee (the Committee), which concluded that the appellant did not belong to the Hindu Holer Caste but

belonged to the Hindu Talwar Caste. Accordingly, the Committee invalidated the caste certificate. Based on the First Information Report registered, a charge sheet was filed against the appellant for the offences punishable under Sections 196, 198 and 420 of the IPC.

2. The learned Judicial Magistrate passed an order of acquittal. In an appeal against acquittal preferred by the respondent-State, the Sessions Court, by judgment dated 21st January, 2015, overturned the order of acquittal and convicted the appellant for the offences punishable under Sections 196, 198 and 420 of the IPC. The appellant was sentenced to undergo simple imprisonment for three years and a fine of Rs.5,000/-. In default, he was sentenced to undergo simple imprisonment for three months. The same sentence was imposed for the offences punishable under Sections 198 and 420 of the IPC.

3. In a revision petition filed by the appellant, the High Court confirmed the conviction for the offences punishable under Sections 198 and 420 of the IPC by the impugned judgment. However, it acquitted the appellant for the offence punishable under Section 196 of the IPC. The High Court reduced the substantive sentence to six months.

SUBMISSIONS

4. The submission of the learned counsel appearing for the appellant is that while overturning the order of acquittal,

there is no finding recorded by the Sessions Court that ingredients of offences punishable under Sections 196, 198 and 415 read with Section 420 of the IPC were proved by the prosecution. He submitted that the Sessions Court was impressed by the fact that the appellant did not challenge the order cancelling the caste certificate. The learned counsel appearing for the State supported the impugned judgments of the Sessions Court and High Court.

CONSIDERATION OF SUBMISSIONS

5. We have carefully perused the judgment of the Trial and Sessions Courts. As far as an appeal against acquittal is concerned, the law is well settled. The Appellate Court has to examine whether the findings recorded in the acquittal judgment are plausible findings that could have been recorded based on the evidence on record. Only if the Appellate Court is satisfied that the guilt of the accused is duly proved was the only plausible finding which could have been recorded based on the evidence on record, the Appellate Court can overturn the order of acquittal. In this case, no such finding has been recorded by the Sessions Court. Only because it is possible to take another view is no ground to overturn an order of acquittal.

6. We find that the Sessions Court has not adverted to the ingredients of the offences for which the appellant was convicted. Perhaps the Sessions Court felt troubled because

there were many cases where the caste certificates issued by the competent authority were being invalidated, and people were taking undue advantage of such certificates. Moreover, the Sessions Court was impressed by the fact that the appellant did not challenge the Committee's order invalidating the caste certificate.

7. As there is no finding recorded that the ingredients of the offences alleged have been proved, the order of conviction passed by the Sessions Court cannot be sustained. Section 198 of the IPC reads thus:

"198. Using as true a certificate known to be false.—Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence."

(Underline supplied)

The Section used the word "corruptly". Therefore, it is obvious that *mens rea* is an essential ingredient of the offence. Only because the appellant could not establish her caste claim before the Committee, one cannot conclude that the appellant corruptly used the caste certificate. Moreover, corruptly using the certificate is not sufficient. The accused must have knowledge that the certificate is false. The allegation that the certificate is false to the knowledge of the appellant must be proved by the prosecution.

8. When the competent authority grants a caste certificate, it can be invalidated on various grounds. One reason can be that the person could not substantiate his caste claim. The second can be that fabricated or forged documents were produced to support the caste claim. There is no finding that the caste certificate was invalidated on this ground. It is not in dispute that the caste certificate was issued by the authority which was competent to issue it after following due procedure. Therefore, the caste certificate, *per se*, cannot be false or fabricated. If a caste certificate is invalidated as the applicant could not prove his caste cannot be termed false only on the ground that it was invalidated. There is no evidence to show that the caste certificate was false. Therefore, the ingredients of Section 198 of the IPC were not made out.

9. The same is the case with cheating, defined by Section 415 of the IPC and punishable under Section 420 of the IPC. Fraudulent or dishonest acts are essential ingredients of cheating. The Sessions Court has recorded no such finding regarding any fraudulent or dishonest acts on the part of the appellant.

10. This is not a case where the Committee had recorded a categorical finding on facts that the claim made by the appellant was false.

11. Considering the above discussion, it is evident that the

Sessions Court could not have overturned the order of acquittal. The High Court while confirming the order of the Sessions Court has not even considered the fact that the Sessions Court has not recorded a finding that ingredients of the offences were established. Therefore, the appeal must succeed. Judgment and order dated 21st January, 2015 passed by the Learned VII Additional District and Sessions Judge, Belgaum in Criminal Appeal No.2/2014 and judgment and order dated 11th August, 2015 passed by the High Court in Criminal Revision Petition No.100045/2015 are hereby set aside, and the judgment of the learned Magistrate dated 26th August, 2013 in CC No.374/2005 is hereby restored.

12. The Appeal is accordingly allowed.

13. Pending application(s), if any, shall stand disposed of.

.....J.
(ABHAY S.OKA)

.....J.
(AUGUSTINE GEORGE MASIH)

NEW DELHI;
OCTOBER 16, 2024.

ITEM NO.108

COURT NO.6

SECTION II-C

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.3398/2024

VIMALAKKA RAMAPPA KOLI @TALWAR

Appellant(s)

VERSUS

THE STATE OF KARNATAKA

Respondent(s)

(IA No. 95851/2024 - EXEMPTION FROM FILING O.T.
IA No. 95848/2024 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 16-10-2024 This matter was called on for hearing
today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA

HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Appellant(s) Mr. Chandrashekhar A. Chakalabbi, Adv.
Mr. S.K Pandey, Adv.
Mr. Awanish Kumar, Adv.
Mr. Anshul Rai, Adv.
M/S. Dharmaprabhas Law Associates, AOR

For Respondent(s) Mr. D. L. Chidananda, AOR

UPON hearing the counsel the Court made the following
O R D E R

The Appeal is allowed in terms of the signed Non-
Reportable Judgment.

Pending application(s), if any, shall stand disposed of.

(KAVITA PAHUJA)
ASTT. REGISTRAR-cum-PS

(AVGV RAMU)
COURT MASTER (NSH)

[Signed order is placed on the file]