

Supreme Court of India

Narain Lal Nirala vs State Of Rajasthan on 22 April, 1993

Equivalent citations: AIR 1994 SC 118, 1993 CriLJ 3911

Bench: K J Reddy, N Singh

JUDGMENT

1. Both these appeals arise out of the judgment of the High Court of Rajasthan confirming the conviction and sentence passed against the appellants by the Special Judge for ACD cases. The appellant in Criminal Appeal No. 546/1984 was convicted under Section 120B and 468 Indian Penal Code and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs. 500/- and 1000/- respectively and in default, to undergo two and four months imprisonment. During the pendency of the appeal in this Court, Narain Lal Nirala died and to that effect a statement is also made by the learned Counsel appearing on behalf of the appellant. Therefore, the Criminal Appeal No. 546/1984 stands abated. The learned Counsel, however, submits that the legal representatives of the appellant should be permitted to pursue the remedy, if any regarding the outstanding claims from the department concerned which is due to the appellant. We cannot decide that matter in this appeal. If the legal representatives of the appellant are so advised, it is open to them to pursue the remedy departmentally, in accordance with law. Criminal Appeal No. 546/1984 is thus disposed of accordingly.

2. Criminal Appeal No. 118/1985 is filed by one Brij Mohan. The case pertains to a certain illegal set alleged to have been committed by Brij Mohan and other co-accused, including Narain Lal Nirala while discharging their duties as public servants, having been employed and posted as Vaid and Up-void in Ayurvedic Aushadhalaya, Jaipur. The Additional Superintendent of Police in Anti-Corruption Department received information and that corruption was rampant in the said Aushadhalaya and that Brij Mohan - the appellant (Up-void) was in the habit of making bogus medical bills for govt. servants for payment of 30% amount of the bills which was proved to be a serious illegal gratification. One Gobind Lal the proprietor of Ayurvedic Stores, along with his assistants was also parties to the criminal conspiracy. The further ease of the prosecution is that Narain Lal Nirala - another accused who was working as Vaid in the said department was conspired to commit illegal acts for the purpose of illegal gratification. The appellant Brij Mohan used to prepare false, out-door patient tickets in the names of government servant giving back dates and then arranged to get the bogus cash memos in respect of those tickets which were prepared by Govind Lal - the shop owner, with the help of Chandra - who was also working in the shop. Narain Lal Nirala - the Vaid, used to verify such cash memos and used to issue the 'essentiality certificate' to enable the government servants concerned viz., the so-called patients to realise payments of the amount of bogus cash memos from the government. The amount of illegal gratification realised were to be divided amongst themselves. This according to the prosecution, was the modus operandi of the whole case.

3. The Addl. Superintendent of Police who received information regarding the illegal activities decided to lay a trap and accordingly passed an order and arranged a trap with the help of Jagdish Singh (P.W. 1). He went to the hospital putting up the appearance as a patient and approached Brij Mohan and the transaction was settled. The Panchnama was drafted and tainted money was handed

over to him after noting the numbers of the currency notes. On 5-6-1973, Jagdish Singh PW-1 approached Brij Mohan and got the necessary bills passed. On 7-6-1973, tainted money with initials were handed over to Jagdish Singh and according to the prosecution, the tainted money was passed on to Brij Mohan and thereafter Jagdish Singh came and gave the usual signal to the trap party to enter the premises. The trap party searched the person of Brij Mohan, recovered the tainted money and necessary test was conducted which turned to be positive. A panchnama was drawn and the necessary charge-sheet was laid. All the accused denied the offence. Brij Mohan pleaded not guilty and in a general way stated that he did not take any bribe from Jagdish Singh. He, however, admitted that police had washed his hands and bush-shirts and finally claimed to be innocent.

4. We are now concerned with the case against the appellant Brij Mohan, who, admittedly was working as Up-vaid in the said Aushadalaya. The evidence of P.Ws. Nos. 1 to 4, 5, 9 and 13 shows that a trap was, in fact, laid. Some of the official witnesses also spoke of the seizure by the police which was found to be false. In view of the fact that a trap was laid and the tainted money was recovered from the appellant - Brij Mohan, the bare denial by him is of no consequence. The learned Counsel for the said appellant, however, submits that they are all interested witnesses, viz., all of them being at the beck and call of the police and the other witnesses being police officials themselves, their evidence cannot be relied upon, and there is nothing to show that Brij Mohan was responsible for preparing these bills. This submission is somewhat general in nature. However, the courts below concurrently held that the evidence of these witnesses is reliable and the fact that the tainted money was recovered from the appellant Brij Mohan has been amply established. In spite of concurrent findings of the courts below, we have, however, perused the evidence of the material witnesses and we are satisfied that laying of the trap has been established and once that aspect is established, the explanation of the appellant becomes relevant and in the instant case no plausible explanation has been put forward except the general denial. Therefore, we see no merits in this appeal.

5. Now, coming to the sentence, the occurrence itself is said to have been taken place in the year 1973. We think ends of justice would be met if the sentence of one year under each count is reduced to six months. With this modification of sentence, the appeal is dismissed.