

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 855/2021

CENTRAL BUREAU OF INVESTIGATION

APPELLANT(S)

VERSUS

K.C. PADHI

RESPONDENT(S)

O R D E R

This appeal takes exception to the judgment and order dated 20.08.2020 passed by the High Court of Punjab and Haryana at Chandigarh in Criminal Appeal No.2668-SB of 2018 (O&M), whereby the respondent-accused No.6 came to be acquitted of the offence for which he was tried in connection with CNR No. CHCHOI-000388-2006 (SC No.93 of 2006 and 240 of 2013).

We have heard learned counsel for the parties.

The trial Court recorded the finding of guilt against respondent-accused No.6 and thus convicted him and sentenced to undergo 10 years' rigorous imprisonment with fine of Rs.1,10,000/- (Rupees one lakh ten thousand only) and in default one year's rigorous imprisonment.

When the matter was carried in appeal by the respondent-accused No. 6, the High Court analysed and discussed the entire evidence concerning respondent-accused No.6 from pages 323 to 343 of the impugned judgment. The High Court noted several aspects to reverse the finding of guilt and to conclusively hold that respondent was falsely implicated in the case. The reasons recorded by the High Court are exhaustive and commend to us.

It is rightly noted by the High Court that the prosecution had miserably failed to establish the manner in which the prosecutrix along with PW-45 had entered the high security zone area, where the respondent-accused No.6 was residing along with his family. Neither the auto-rickshaw in which she travelled upto the high security zone campus where the respondent-accused No.6 was residing has been identified nor the statement of the driver of that auto-rickshaw has been recorded by the Investigating Agency.

PW-1 in her statement had mentioned that while standing outside the gate of the stated campus, a phone call was made from the STD booth but the Investigating Agency had not recorded the statement of even the owner or operator of the STD booth from where

the phone call was made nor made any effort to collect the outgoing call details of the phone installed in STD booth or even the incoming call details of the landline used by respondent at his residence.

Similarly, the white gypsy in which PW-1 claims to have travelled inside the campus with two gunmen accompanying her upto the residence of respondent-accused No. 6, neither the vehicle has been identified nor the statement of driver and the two gunmen has been recorded by the Investigating Agency. More so, the cook working with respondent-accused No. 6 at his residence has not been examined by the Investigating Agency. It is the respondent-accused No. 6, who produced him as a defence witness. Further, the High Court has also rightly noted that PW-45 who had allegedly accompanied PW-1 to the residence of respondent-accused No. 6, had turned hostile and did not support the prosecution case.

Notably, the crucial evidence regarding the visitors' register has not been produced. The guards at the main gate of the campus had neither been identified nor their statements have been recorded by the Investigating Agency. Furthermore, the involvement of respondent-accused No.6 came to light only in the third statement of PW-1 recorded by the

Investigating Agency.

There are other tangible reasons noted by the High Court which are backed by the evidence on record, to finally conclude that respondent-accused No. 6 was falsely implicated in the case.

We have carefully gone through the relevant record, including the oral evidence of the concerned witnesses, and the so-called discovery memo Exhibit P8/1, heavily relied by the learned counsel for the appellant.

We are at a loss to understand as to how the said document can be described as a discovery memo recorded under Section 27 of the Indian Evidence Act, 1872, at the instance of the victim. It is cardinal that Section 27 is available only in respect of statement or disclosure made by the "accused" and to the extent it can be relied upon. Suffice it to observe that the investigating agency had failed to even collect the essential evidence to establish beyond reasonable doubt that the prosecutrix had in fact entered in the high security campus area in the manner stated by her.

Be that as it may, in our opinion, the reasons recorded by the High Court for allowing the appeal being a possible view, no interference against order

of acquittal is warranted in the fact situation of the present case. Accordingly, this appeal fails and the same is dismissed.

Pending applications are disposed of accordingly.

....., J.
(A.M. KHANWILKAR)

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

....., J.
(C.T. RAVIKUMAR)

NEW DELHI
MARCH 22, 2022

ITEM NO.105

COURT NO.3

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 855/2021

CENTRAL BUREAU OF INVESTIGATION

Appellant(s)

VERSUS

K.C. PADHI

Respondent(s)

IA No. 68113/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 22-03-2022 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE C.T. RAVIKUMAR

For Appellant(s) Ms. Aishwarya Bhati, ASG (NP)
 Mr. Anmol Chandan, Adv.
 Mr. B.K. Satija, Adv.
 Ms. Ruchi Kohli, Adv.
 Ms. Preeti Rani, Adv.
 Mr. Arvind Kumar Sharma, AOR
 Ms. Ameyanikrama Thanvi, Adv.
 Ms. Srishti Mishra, Adv.

For Respondent(s) Mr. Ashwarya Sinha, AOR
 Ms. Priyanka Sinha, Adv.
 Mr. Shashi Shanker, Adv.

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

The appeal is dismissed in terms of the
signed order.

Pending applications are disposed of
accordingly.

(NEETU KHAJURIA)
COURT MASTER

(VIDYA NEGI)
COURT MASTER

(Signed order is placed on the file.)