



2025:DHC:4991



**IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on:17.06.2025

+ **CRL.L.P. 176/2018 & CRL.M.A. 7497/2018**

**STATE NCT OF DELHI**

**.....Petitioner**

versus

**UMESH SHARMA**

**.....Respondent**

**Advocates who appeared in this case:**

For the Petitioner : Mr. Ajay Vikram Singh, APP for the State.  
SI Udai Singh, PS Saket.

For the Respondent : Ms. Seema Mishra, Adv.

**CORAM**

**HON'BLE MR JUSTICE AMIT MAHAJAN**

**JUDGMENT**

**CRL.M.A. 7497/2018** (*condonation of delay of 127 days in filing the present leave petition*)

1. For the reasons mentioned in the application, the same is allowed and the delay in filing the present petition is condoned.

2. The application stands disposed of.

**CRL.L.P. 176/2018**

3. The present petition has been filed under Section 378 of the



Code of Criminal Procedure, 1973 ('**CrPC**') seeking grant of leave to challenge the judgment dated 19.11.2016 (hereafter '**the impugned judgment**'), in Sessions Case No. 64/2015 arising out of FIR No. 933/2014, registered at Police Station Saket, whereby the learned Trial Court acquitted the accused/ respondent for the offence under Section 489C of the Indian Penal Code, 1860 ('**IPC**').

4. The brief facts are that on the intervening night of 08/09.12.2014, the police while on patrolling duty reached Som Bazar Market, Pushp Vihar, wherein they found a number of people gathered around.

5. It is alleged that on 08.12.2024 at around 10:00 p.m. one person namely Mohd. Imran had come to the shop of the complainant to purchase a piece of cloth for a suit, thereafter, he handed over a currency note of ₹1,000/- to the complainant.

6. It is further alleged that on checking the said currency note it was found to be fake. When the complainant asked Mohd. Imran regarding this aspect, he ran away from the spot, whereafter, with the help of the other people present the complainant apprehended him.

7. Upon conducting a search four more currency notes of ₹1,000/- were recovered from Mohd. Imran. The said currency notes also appeared to be fake. Pursuant to the statement of the complainant, the police registered FIR No. 933/2014 under Sections 489B/489C of the IPC.

8. The police thereafter arrested Mohd. Imran, who in his



statement disclosed that he used to get these currency notes from the accused/respondent. On the basis of his disclosure statement the police arrested the accused/respondent and from his right pant pocket 17 currency notes of ₹1,000/- were recovered.

9. The accused/respondent in his statement disclosed that he used to get these counterfeit currency notes from one person namely Faizul who is a resident of West Bengal.

10. On completion of investigation the police filed the chargesheet under Sections 489B/489C of the IPC. The learned Trial Court framed charges against the accused/respondent under Section 489C of the IPC to which he pleaded not guilty and claimed trial.

11. The accused/respondent in his statement under Section 313 of the CrPC stated that he has been falsely implicated in the present case by one Lady Kaushalya, who started blackmailing him as he wanted to end the relationship with her. The learned Trial Court noted that as per the arrest memo which is Ex. PW1/F Kaushalya is stated to be the wife of the accused/respondent.

12. The learned Trial Court, noting the contradictions in the evidence of the prosecution witnesses, acquitted the accused/respondent by the impugned judgment.

13. The learned Additional Public Prosecutor for the State submitted that the learned Trial Court failed to consider that the accused/respondent was apprehended by the police on the pointing of Mohd. Imran who had specifically disclosed that the fake currency



notes were supplied to him by the accused/respondent.

14. He submitted that the learned Trial Court failed to appreciate the fact that upon conducting a formal search of the accused/respondent, 17 fake currency notes of ₹1,000/- each were recovered from him.

15. He further submitted that the learned Trial Court erred in not considering the fact that the accused/respondent was previously involved in another case regarding fake currency notes and had disclosed that the currency notes were supplied to him by one person namely Faizul.

16. *Per contra*, learned counsel for the accused/respondent vehemently opposed the arguments as raised by the learned Additional Public Prosecutor for the State.

17. She submitted that there were material contradictions in the statements made by the prosecution witnesses. She further submitted that the prosecution failed to produce any evidence which establish a link between Mohd. Imran and the accused/respondent.

18. I have heard the learned counsel appearing for the parties and perused the record.

### **Analysis**

19. It is trite law that this Court must exercise caution and should only interfere in an appeal against acquittal where there are substantial and compelling reasons to do so. At the stage of grant of leave to appeal, the High Court has to see whether a *prima facie* case is made



out in favour of the appellant or if such arguable points have been raised which would merit interference. The Hon'ble Apex Court in the case of ***Maharashtra v. Sujay Mangesh Poyarekar: (2008) 9 SCC 475*** held as under:

*“19. Now, Section 378 of the Code provides for filing of appeal by the State in case of acquittal. Sub-section (3) declares that no appeal “shall be entertained except with the leave of the High Court”. It is, therefore, necessary for the State where it is aggrieved by an order of acquittal recorded by a Court of Session to file an application for leave to appeal as required by sub-section (3) of Section 378 of the Code. It is also true that an appeal can be registered and heard on merits by the High Court only after the High Court grants leave by allowing the application filed under sub-section (3) of Section 378 of the Code.*

*20. In our opinion, however, in deciding the question whether requisite leave should or should not be granted, the High Court must apply its mind, consider whether a prima facie case has been made out or arguable points have been raised and not whether the order of acquittal would or would not be set aside.*

*21. It cannot be laid down as an abstract proposition of law of universal application that each and every petition seeking leave to prefer an appeal against an order of acquittal recorded by a trial court must be allowed by the appellate court and every appeal must be admitted and decided on merits. But it also cannot be overlooked that at that stage, the court would not enter into minute details of the prosecution evidence and refuse leave observing that the judgment of acquittal recorded by the trial court could not be said to be “perverse” and, hence, no leave should be granted.”*

(emphasis supplied)

20. The learned Trial Court *vide* the impugned judgment had acquitted the accused/ respondent for the said offences on the ground that there were material contradictions in the depositions made by the prosecution witnesses.



21. PW-8, Investigating Officer Ravi Shankar Tyagi deposed that the Mohd. Imran made a disclosure statement that the accused/respondent used to meet him near Shiv Shakti Public School in Sangam Vihar and supply fake currency notes. He further deposed that thereafter Mohd. Imran led the police to the said location, wherein, the accused/respondent was standing near the school and on being identified by Mohd. Imran was thereafter arrested. Upon conducting a formal search 17 fake currency notes of ₹1,000/- each were recovered at his instance.

22. PW-1, Constable Sandeep deposed that after recording the disclosure statement, Mohd. Imran made a phone call to the accused/respondent and asked him to deliver fake currency notes to him. After reaching the said location, the police apprehended the accused/respondent.

23. The learned Trial Court noted that the accused/respondent was apprehended from the main gate of the school at around 1:30 a.m. on the intervening night of 08/09.12.2014. Constable Sandeep stated that the accused/respondent was called at the location by a phone call. However, in the statement made by Investigating Officer Ravi Shankar Tyagi nowhere has he mentioned that the accused/respondent was called near the school by a phone call.

24. It was further noted by the learned Trial Court that in order to establish a link between Mohd. Imran and the accused/respondent the prosecution has neither placed the call details on record nor the



alleged mobile phone used to call the accused/respondent been seized.

25. The prosecution is seeking conviction of the respondent on the basis of the disclosure statement of the co-accused and the alleged recovery of fake currency from the respondent.

26. As noted above, the disclosure of the co-accused is not supported with any corroborative material. The alleged recovery of the fake currency from the respondent is also not supported with any independent witness. There are also contradictions in the statements made by PW-1 and PW-8, being Constable Sandeep and Investigating Officer Ravi Shankar Tyagi respectively, in regard to the manner in which the respondent was apprehended near Shiv Shakti Public School.

27. The learned Trial Court rightly noted that no CDR has been placed on record in order to corroborate the prosecution version.

28. It is also relevant to note that in order to convict any accused under Section 489C of the IPC, the prosecution has to establish that the accused had intention to use such fake currency notes by portraying them to be genuine. Section 489C of the IPC reads as under:

**489C. Possession of forged or counterfeit currency-notes or bank-notes.**—Whoever has in his possession any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

29. Even if it is to be presumed that the fake currency notes were



recovered from the respondent, in the absence of any material to show that the same were meant to be used as genuine, no order of conviction can be passed. This Court, in the case of *Akil v. State (NCT of Delhi)* : 2024 SCC OnLine Del 3242, had observed as under :

*“So also possessing or even intending to use any forged or counterfeit currency is not sufficient to make out the commission of offence under Section 489C, in absence of mens rea. Therefore, to convict an accused under Section 489C, possession, knowledge of notes being counterfeit and intention to use as such, are the essential ingredients but in the present case prosecution has failed to lead any evidence to prove that appellants had knowledge of the notes being counterfeit and/or had an intention to use them as genuine.”*

30. In view of the above, this Court is of the opinion that there are material contradictions in the statements made by the prosecution witnesses in regard to the manner in which the respondent was arrested and the prosecution has failed to establish a link between Mohd. Imran and the respondent.

31. The doubt, thus, has been created in regard to alleged recovery of 17 fake currency notes from the respondent and the benefit of the same cannot be denied to the respondent. Moreover, as noted above, even if it is to be presumed that the fake currency notes were in fact recovered from the respondent, in the absence of the prosecution to establish the intention of the respondent to use the fake currency notes as genuine, no order of conviction can be passed.

32. In view of the aforesaid discussion, this Court is of the opinion that there is no infirmity with the impugned judgment passed by the





2025:DHC:4991



learned Trial Court and the State has not been able to establish a *prima facie* case in its favour and no credible ground has been raised to accede to the State's request to grant leave to appeal in the present case.

33. The leave petition is dismissed in the aforesaid terms. Pending applications if any also stand disposed of.

**AMIT MAHAJAN, J**

**JUNE 17, 2025**