

IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA &

HON'BLE SHRI JUSTICE AMAR NATH (KESHARWANI)

CRIMINAL APPEAL No. 4028 of 2022

BETWEEN:-

RAMESHWAR S/O SALAGRAM PATIDAR, AGED ABOUT 46 YEARS,
1. OCCUPATION: AGRICULTURE VILLAGE KHOKRA KALAN
(MADHYA PRADESH)

BRIJMOHAN S/O SHIV NARAYAN CHAURISA, AGED ABOUT 54
2. YEARS, OCCUPATION: AGRICULTURE VILLAGE KHOKRA
KALAN, BAJAR MOHALLA, (MADHYA PRADESH)

DAMODAR PATIDAR S/O JAMNAPRASAD, AGED ABOUT 54
3. YEARS, OCCUPATION: AGRICULTURE VILLAGE KHOKRA
KALAN (MADHYA PRADESH)

.....APPELLANT

*(SHRI AMAR SINGH RATHORE, LEARNED COUNSEL FOR THE
APPELLANTS)*

AND

1. THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER
THROUGH POLICE STATION KALAPIPAL (MADHYA PRADESH)

2. ARVIND PATIDAR S/O MANGILAL PATIDAR, AGED ABOUT 34
YEARS, OCCUPATION: N.A. KHOKRA KALA (MADHYA PRADESH)

.....RESPONDENTS

*(SHRI BHASKAR AGRAWAL, LEARNED GOVT. ADVOCATE FOR
RESPONDENT/STATE.)*

This appeal coming on for hearing this day, JUSTICE VIVEK

RUSIA passed the following:

ORDER

(Passed on 21st September, 2022)

Heard on the question of admission.

The present appeal is filed u/s. 372 of the Cr.P.C. by appellants

No.1 and 2 who made a complaint to the police at the instance of appellant No.3.

At the very outset, the learned Government Advocate appearing for the respondent/State has raised an objection about the maintainability of this appeal. According to him, the appeal u/s. 372 of the Cr.P.C. is maintainable only at the instance of the victim. Appellants No.1 and 2 are not the victims of the offence said to have been committed by respondent No.3. Appellant No.3 is the victim but he did not suffer any loss and he did not lodge any complaint to the police, therefore, at his instance also, this appeal is not maintainable. Learned Government Advocate further submits that “victim” is defined as u/s. 2(wa) of Cr.P.C. and according to which, “victim” means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged. Since appellant No.3 did not suffer any loss or injury, therefore, he cannot be termed a “victim”. Hence this appeal is not maintainable.

As per the prosecution story, appellant No.3 contacted appellants No.1 and 2 who are President and Secretary of Gram Panchayat Kalapipal that he contacted respondent No.2 to secure a loan from the financial institution. Respondent No.2 demanded Rs.5,000/- and assured him that he would prepare the necessary documents for obtaining the loan. He gave Rs.2,500/- in front of his nephew Sachin. After a few days, respondent No.2 returned the documents that the loan cannot be passed because of the defects in the documents. Appellant No.3 handed over all those documents to appellants No.1 and 2 to know the shortcomings in the documents.

Appellants No.1 and 2 examined those documents and found that signature, seal, stamps and the letterhead of the Gram Panchayat

are the forged documents prepared by respondent No.2 and accordingly, they made a written complaint to the Sub Divisional Officer and Station House Officer, Police Station Kalapipal to inquire into the matter.

After registration of the FIR, the documents were to the Handwriting Expert and respondent No.2 was put to trial. After the conclusion of the trial, respondent No.2 has been acquitted by the trial Court and directed for the prosecution of appellants No.1 and 2 as they have prepared the forged documents in order to falsely implicate respondent No.2. Hence, this appeal u/s. 372 of the Cr.P.C. by appellants No.1 and 2.

Section 372 of the Cr.P.C. is reproduced below :

“372. No appeal to lie unless otherwise provided

– No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force :

Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.”

As rightly submitted by a learned Government Advocate that Section 372 gives a right of appeal to a victim against any order passed by any Court acquitting any accused or convicting for a lesser offence. The word “victim” is defined as u/s. 2(wa) of the Cr.P.C. In the present case, at the most, appellant No.3 can be termed as a “victim”, who is said to have given Rs.2,500/- to respondent No.2, but respondent No.2 has not been charged for the aforesaid act of cheating to appellant No.3. The word “victim” means a person who has suffered any loss or injury caused by reason of the act or omission for

which the accused person has been charged. Respondent No.2 has been charged only for the preparation of forged documents (Article 'A-1" to A-5") by forging signatures of appellants No.1 and 2 and using the original documents. Respondent No.2 was charged only for the offence u/s. 467(5 counts) and 468(5 counts) of the I.P.C. and the appellant No.3 did not lodge any FIR against respondent No.2, therefore, at his instance also, appeal u/s. 372 of the Cr.P.C. is not maintainable.

So far as appellants No.1 and 2 are concerned, they did not lodge any report that they suffered any loss or injury by the act of respondent No.2. In their evidence deposed before the Court, they did not depose that they as well as Gram Panchayat suffered any loss of reputation or injury.

Even otherwise, respondent No.2 has pleaded that because of political enmities appellants No.1 and 2 have falsely implicated him as his wife is working as a 'Panch' in the same Gram Panchayat and she raises her voice against appellant No.1. In view of the above, this appeal is not maintainable.

Accordingly, this appeal fails and is hereby dismissed as not maintainable. The certified copy of the impugned judgment be returned to the appellants in order to avail remedy available under the law.

[VIVEK RUSIA]
JUDGE.

[AMAR NATH (KESHARWANI)]
JUDGE.

Alok/-