

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.10 OF 2014

ORDER:

Petitioner - accused filed this Criminal Revision Case by invoking the provision under Section 397 & 401 of the Criminal Procedure Code, being aggrieved by the judgment, dated 19.12.2013 rendered in Criminal Appeal No.151 of 2013 by the Principal Sessions Judge, Eluru, whereby and whereunder the learned Sessions Judge confirmed the conviction and sentence imposed by the Judicial Magistrate of First Class, Chinthalapudi, against the petitioner.

The brief facts of the case are that the petitioner and another person were arrested in Crime No.277 of 2012-13 for the offence under Section 7(A) r/w.8(e) of the A.P. Prohibition Act. They were produced before the Judicial Magistrate of First Class, Chinthalapudi by the Prohibition & Excise Constable of Chinthalapudi (PW-1) and the learned Magistrate remanded them to the judicial custody. After that, while PW.1 is waiting for an auto to take them to the Sub-Jail, Chinthalapudi, the petitioner asked PW.1 to permit him to attend calls of nature and PW.1 allowed him. But, taking advantage of the same, the petitioner fled away from the clutches of PW.1. PW.1 could not chase him as the other offender was in his custody. After handing over the other offender in Sub-Jail, PW.1 informed about the matter to the in-charge Sub-Inspector of Police, Chinthalapudi and the same was registered as Crime No.130 of 2012 for the offence under Section 224 IPC. After completion of investigation, the police filed charge sheet before the Judicial Magistrate of First Class, Chinthalapudi. The learned Magistrate has taken case on file under Section 224 IPC against the accused.

On appearance of the accused before the trial Court, the charge was read over and explained to him, for which, he pleaded not guilty and claimed for trial.

To substantiate its case, prosecution got examined PWs.1 to 6 and marked Exs.P-1 to P-3. On behalf of defence, no oral or documentary evidence was adduced.

After appreciating the oral and documentary evidence available on record, the trial Court found the accused guilty of the offence punishable under Section 224 IPC, and accordingly, convicted and sentenced him as stated above. Aggrieved by the conviction order, the petitioner filed Crl.A. No.151 of 2013. The appellate Court dismissed the appeal by confirming the order of the trial Court, by judgment, dated 19.12.2013. Challenging the same, the present revision case is filed.

Heard and perused the entire material available on record.

After hearing the arguments of the learned counsel for both sides and after perusing the material available on record, this Court is of the view that there are no reasons to set aside the conviction against the petitioner - accused for the offence under Section 224 IPC. When this Court expressed its opinion that this Court is not inclined to interfere with the concurrent findings of the Courts below, learned counsel for the petitioner submitted that he will confine his arguments only to the extent of the period of imprisonment imposed against the petitioner and a lenient view may be taken in imposing the sentence against the petitioner on the ground that the co-accused in the main case was already acquitted.

Considering the facts and circumstances of the case and also in view of the submission of the learned counsel for the petitioner, this Court is inclined to reduce the sentence of imprisonment imposed against the petitioner for the offence under Section 224 IPC to that of the period, which the appellant has already undergone.

In the result, the conviction recorded against the petitioner – accused by the Judicial Magistrate of First Class, Chinthalapudi, in C.C. No.231 of 2012, vide Judgment, dated 15.03.2013, for the offence under Section 224 IPC, as confirmed by the Principal Sessions Judge, West Godavari, Eluru, in Crl.A. No.151 of 2013 vide judgment, dated 19.12.2013, is hereby confirmed. However, the sentence of imprisonment imposed by the trial Court, as confirmed by the appellate Court, is modified to that of the period, which the petitioner has already undergone.

The Criminal Revision Case is, accordingly, allowed in part. Consequently, the Miscellaneous Petitions pending, if any, shall stand closed.

RAJA ELANGO, J

November 03, 2015.

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