

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.2446 of 2015

JUDGMENT

This revision is directed against the judgment, dated 23.03.2015, passed by the learned Metropolitan Sessions Judge, Hyderabad in CrI.A.No.48 of 2015, confirming the conviction and the sentence imposed against the petitioner/A1 by the learned VII Additional Chief Metropolitan Magistrate, Hyderabad vide judgment dated 23.12.2014 in C.C.No.691 of 2014.

2. The brief facts of the prosecution case are as follows:

Prior to 01.07.2014, A1 had collected money from several persons with the help of her husband A2 by dishonestly inducing them that A1 would provide gas cylinders, rice cookers and sewing machines at subsidized rates, thereafter, she failed to provide the same to them and had misappropriated the collected amount. On the basis of the complaint lodged by P.W.1, a case in Cr.No.201 of 2014 was registered under Section 420 IPC. On completion of investigation, the police laid the charge sheet.

3. To substantiate the case of the prosecution, P.Ws.1 to 23 were examined and Exs.P1 and P2 were marked on behalf of the prosecution. No evidence was adduced and no document was marked on behalf of the defence.

4. The learned Magistrate, after taking into consideration the evidence of prosecution witnesses, found A2 not guilty of the offence under Section 420 IPC and acquitted him, but found A1

guilty of the offence under Section 420 IPC and thereby convicted and sentenced her to undergo simple imprisonment for a period of three years and also to pay a fine of Rs.100/- in default of payment of fine, she shall undergo simple imprisonment for a period of one month. Questioning the said conviction and the sentence, A1 filed Crl.A.No.48 of 2015 and the lower appellate Court on re-appreciation of the entire evidence dismissed the appeal confirming the conviction and the sentence recorded by the trial Court, but reduced the sentence of imprisonment from three years to two years. Aggrieved by the same, the petitioner/A1 filed the present revision.

5. Learned Counsel for the petitioner/A1 fairly conceded that this is not a fit case for interference, but having regard to the fact that the petitioner has undergone imprisonment for a substantial period, a lenient view may be taken insofar as the sentence of imprisonment is concerned.

6. From the record, it appears that the petitioner was in jail from 23.03.2015. In the facts and circumstances of the case and in view of the concurrent findings of both the Courts below, this Court is not inclined to interfere with the conviction recorded by the Courts below. But however, in view of the submission of the learned counsel for the petitioner that the petitioner/A1 had already undergone imprisonment for a considerable period, the sentence of imprisonment imposed on her by the Courts below is reduced to the period already undergone while maintaining the sentence of fine imposed by the Courts below.

7. In the result, the conviction recorded against the petitioner-A1 by the Courts below for the offence under Section 420 IPC is confirmed, but the sentence of imprisonment imposed by the lower appellate Court is reduced from two years simple imprisonment to the period already undergone by the petitioner while confirming the sentence of fine with default condition.

The petitioner-A1 is directed to be released forthwith if she is not required in any other case.

8. With the above modification, the Criminal Revision Case is partly allowed. Miscellaneous Petitions, if any, pending in this revision shall stand closed.

RAJA ELANGO, J

7th October, 2015
sj