

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRL.R.C.No.957 OF 2008

ORDER:

This Criminal Revision Case is filed by the revision petitioners/A1, A3 to A5 against the judgment in CrI.A.No.65/2008, dated 12.05.2008 on the file of the I Additional District & Sessions Judge, West Godavari, Eluru, by and under which, the conviction and sentence as imposed by the trial Court was confirmed.

Heard the learned counsel appearing for the revision petitioners/A1, A3 to A5 and the learned Additional Public Prosecutor, representing the State.

The case of the prosecution is that the accused who belong to various places formed themselves into a gang and were cheating the innocent public in several methods in the name of doubling currency. While so, on 15.10.2007 at 3 p.m. all the accused came to the sweet shop of PW 1 situated at Fire Station Centre, Eluru in a Car bearing registration No.AP17-AQ2288 and on a Bajaj Motor Cycle bearing registration No.AP20K-5719 and purchased some sweets from his shop. While eating the sweets, they commenced conversation with PW 1 and informed him that they are having some black colour papers which will become original currency notes if wiped with the chemical powder available with them and offered such black colour papers worth Rs.20,000/- to PW 1 if he gives original currency of Rs.10,000/-. PW 1 suspected the accused that they are cheaters and asked them to come after one hour and then they asked PW 1 to give Rs.1000/- as advance to purchase petrol for their car and PW 1 gave them Rs.500/- note bearing No.3BQ 198881. The accused asked PW 1 to come to new Ashok Nagar Bridge, Eluru with cash to collect the colour papers. PW 1 passed the information to police. PW 5, the investigating officer along with PW 1, staff members and mediators proceeded to new Ashok Nagar Bridge, Eluru and arrested all the accused on 15.10.2007 at 5 pm and seized the Car, Motor cycle, some paper bundles, chemical bottles

and some other material used by the accused to cheat the innocent public under the cover of mediators report, and registered a case in Cr.No.252/2007 of Eluru II Town L & O Police Station under section 420 IPC against the accused. After completion of investigation, the police filed charge sheet in C.C.No.764/2007 on the file of the II Additional Judicial Magistrate of I Class, Eluru.

On appearance of the accused before the trial Court, they were examined under section 239 Cr.P.C, and the charge under section 420 IPC has been framed against them, for which they pleaded not guilty.

During course of trial, the prosecution examined PWs 1 to 5 and got marked Exs.P1 to P4 and M.Os.1 to 11. After closure of the prosecution evidence, the accused were examined under Section 313 Cr.P.C putting all incriminating material available against them. Accused denied the material evidence and no evidence was adduced on their behalf.

On appreciation of oral and documentary evidence, the trial Court found A6 & A7 not guilty of the offence under Section 420 IPC and acquitted them. However, the trial Court found A1 to A5 guilty of the offence under Section 420 r/w.511 IPC, instead of Sec.420 IPC, convicted and sentenced A1 to A5 to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.300/- each, in default to suffer simple imprisonment for a period of 15 days each.

Challenging the conviction and sentence passed by the trial Court, A1 to A5 preferred CrI.A.65/2008 before the lower appellate Court. The learned Sessions Judge, on re-appreciation of oral and documentary evidence, dismissed the appeal while confirming the conviction and sentence recorded by the trial Court against A1 to A5. Aggrieved by the same A1, A3 to A5 alone filed the present criminal revision case.

The point that arises for consideration in this revision is whether the conviction and sentence imposed by the Courts below against the revision petitioners/A1, A3 to A5 is sustainable, or whether it needs

interference.

Having perused the material available on record including the oral and documentary evidence and also the judgment of both the Courts below, the facts that have been proved are that, PW.1 is running a sweet shop and, on 15.10.2007, while he was in the said shop, A1 to A7 approached him in one car and motorcycle and told him that they are having some chemical powder, which if applied to a black paper that will be converted into currency and demonstrated by converting a black paper into 50 rupee note. The accused further alleged to have told him that if he can give genuine currency worth about Rs.10,000/-, the same will be converted into currency of Rs.20,000/-. PW.1 developed suspicion and asked them to come subsequently. The accused asked PW.1 to come with the currency notes near Ashoknagar Bridge, Eluru. Since PW.1 already developed suspicion, he approached jurisdictional Inspector of Police and gave statement which was recorded by PW.3 in the presence of the Village Revenue Officer in MRO Office. In all they proceeded to Ashoknagar Bridge, Eluru as informed by the accused and when PW.1 was in the process of negotiation with the accused people, police apprehended them and the entire proceedings were reduced into panchanama. On the basis of the said Panchanama crime was registered. Evidence of PW.1 is consistent. It is evident that the accused persons A1 to A7 have approached PW.1 and made the promise of converting fake currency into original currency. The evidence of PW.1 is substantially corroborated by independent witness PW.3 and also investigating officer. The trial Court found A6 and A7 not guilty and acquitted them, but however found A.1 to A5 guilty and convicted them for the offence under Section 420 read with 511 IPC and sentenced to undergo rigorous imprisonment for one year and also sentenced to pay fine of Rs.300/- each. The conviction was confirmed by the appellate Court. Aggrieved by the same, the present revision case is filed. No revision is preferred by A2.

The material evidence on record establishes that the accused persons have attempted to cheat the prosecution witnesses by offering him to double the currency. However, they were apprehended, therefore, both the Courts below have rightly found them guilty under Section 420 read with 511 IPC.

Upon appreciation of the evidence on record, I find no reason to take a different view other than that is already taken by both the Courts below. Therefore, conviction of A1, A3 to A5 for the offence under Section 420 read with 511 IPC cannot be interfered with and the same is sustained.

With regard to quantum of sentence, learned counsel submits that the petitioners have undergone imprisonment for more than seven months and that considering the nature of offence, lenient view may be taken. In view of the above, I feel that ends of injustice will be met, if the sentence is reduced to the period already undergone by the petitioners.

Accordingly, the revision case is dismissed reducing the sentence to the period already undergone by the petitioners/accused while maintaining the sentence of fine.

Pending miscellaneous petitions in the revision, if any, shall stand dismissed.

M.S.KJAISWAL,J

28.01.2016
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THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

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DATE: 28.01.2016

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