

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1376 of 2016

ORDER:

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1. This Criminal Revision Case is filed by the petitioners-accused aggrieved by the Judgment dated 14.3.2016 passed in CrI.A.No.175 of 2014 on the file of the VIII Additional District & Sessions Judge, Chittoor.

2. Brief facts of the case are as follows:

The petitioners herein were tried for the offence punishable under Sections 420 and 406 IPC and Section 4 of Prize Chits and Money Circulation Schemes (Banning) Act, 1978 by the III Additional Judicial Magistrate of First Class, Tirupati and IV Additional Judicial Magistrate of First Class, Tirupati and at the stage of arguments, the case was transferred to the Chief Judicial Magistrate of Chittoor and the case was numbered as C.C.No.1 of 2013. After hearing the arguments, the learned Chief Judicial Magistrate, Chittoor pronounced the judgment convicting the petitioners for the offence punishable under Sections 420 and 406 IPC and Section 4 of the Prize Chits and Money Circulation Schemes (Banning Act). Aggrieved by the same, the petitioners filed appeal before the VIII Additional District & Sessions Judge, Chittoor. The learned District & Sessions Judge, while dealing with the matter accepted the arguments of the learned Counsel for the petitioners and set aside the sentence passed by the learned Chief Judicial Magistrate, Chittoor in C.C.No.1 of 2013 and directed the Chief Judicial Magistrate, Chittoor to conduct Denova trial by examining all the witnesses as mentioned in the charge sheet by giving an opportunity to the accused for examination of witnesses. Challenging the judgment passed by the learned VIII Additional District & Sessions Judge, Chittoor, the petitioners filed this revision.

3. Learned Counsel for the petitioners while relying upon the judgment of the Apex Court in the **State of U.P. Vs. Sabir Ali and another**^[1], submitted that the trial conducted by the Magistrate, who has no jurisdiction, is void and therefore, the conviction rendered by the learned Chief Judicial Magistrate basing on the evidence recorded by the Magistrate concerned is vitiated.

4. Learned Additional Public Prosecutor submitted that the judgment by the learned Additional District & Sessions Judge is in accordance with law and it does not warrant any interference.

5. The judgment relied upon by the learned Counsel for the petitioners cannot be made applicable to the present facts and circumstances of the case. The learned District & Sessions Judge has passed the judgment in accordance with law. When the Court, which has conducted trial, has noticed that it has no jurisdiction to try the case, and when the case has been transferred to the Court having jurisdiction, necessarily the Court having jurisdiction shall conduct a fresh trial. In the facts and circumstances of the case, this Court is of the view that the judgment under revision does not suffer from any illegality or irregularity warranting interference by this Court.

6. Accordingly, the Criminal Revision Case is dismissed. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

JUSTICE RAJA ELANGO

Dated: 8.6.2016

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