

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL Nos.629 & 633 OF 2008

COMMON JUDGMENT:

Criminal Appeal Nos.629 and 633 of 2008 are filed by A-4 and A-1 to A-3 & A-5 to A-8 respectively under Section 374(2) Cr.P.C. challenging the judgment, dated 14.5.2008, in Sessions Case No.227 of 2006 on the file of the Assistant Sessions Judge at Siddipet whereunder and whereby, A-1 to A-8 were found guilty for the offences punishable under Sections 489-B and 489-C read with 120-B of the Indian Penal Code, 1860 (for short, "I.P.C.") and sentenced to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.2,000/- and in default of payment of fine, to suffer simple imprisonment for a period of one year for the offence under Section 489-B I.P.C.; and to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/- and in default of payment of fine, to suffer simple imprisonment for a period of six months for the offence punishable under Section 489-C read with 120-B I.P.C.

2. Since both the appeals arise out of the same judgment, they are being disposed of by way of this common judgment.

3. Case of the prosecution is as follows:

On 15.5.2005, at 7:00 A.M., on reliable information about circulation of fake currency notes near Rythu Bazaar at Siddipet, P.W.1 – Sub Inspector of Police along with P.Ws.2 to 4 – Police Constables and P.W.7 – Head Constable as well as P.Ws.5 and 6 –

mediators rushed to Rythu Bazaar where A-1 was moving under suspicious circumstances. On search, they found ten fake notes of hundred denomination. On interrogation, A-1 confessed in the presence of P.Ws.5 and 6 that he circulated the fake currency notes and his brother-in-law Yadagiri advised him to circulate the fake currency notes and the said Yadagiri associated with Chilveri Kondal Reddy, resident of Japthilingareddipalli, who gave twenty currency notes of hundred denomination by taking Rs.1,000/- genuine currency notes and he circulated one thousand fake notes in the market and on verification, found 10 fake currency notes of 100 denomination, two notes having same number as 9 MB – 748086, three notes having same number as 9 MB – 740087, two notes having numbers as 9 MB 748091, which were seized from the possession of A-1 under cover of panchanama in the presence of P.Ws.5 and 6. Then, a case in Crime No.67 of 2005 under Sections 489-B, 489-C and 420 I.P.C. was registered. During the course of investigation, P.W.8 – Sub Inspector of Police along with P.Ws.1 to 4 and P.Ws.5 and 6 proceeded to Japthilingareddipalli where A-2 and A-3 were apprehended on 15.5.2005 at 10:30 A.M. On interrogation, both the accused confessed in the presence of P.Ws.5 and 6 stating that they are agents of one Neela Yellam who along with Anil Kumar (A-4) gave them fake currency notes to circulate among the people and they gave twenty fake currency notes of hundred denomination to A-1 and handed over each hundred fake currency notes of hundred denomination totaling Rs.20,000/- which were seized under cover of panchanama. It is stated that A-3 lead P.W.8 – Circle Inspector of Police along with P.Ws.1 to 4, P.W.7 as well as P.Ws.5 and 6 to Metpalli where A-4

was apprehended and on interrogation, A-4 confessed that he is working under Neela Yellam and used to print the fake currency notes of hundred rupee with the help of computer and printer while his master Yellam used to print the symbol of Mahathma Gandhi and thread mark on the currency notes with the help of Screen Printing and he had printed total Rs.35,000/- fake currency notes of hundred denomination and supplied thousand fake currency notes of hundred denomination totaling Rupees one lakh to Maddela Raju of Mirdoddi (A-5) 250 fake notes of 100 denomination to one Raju of Wargal (A-10) at Hyderabad, 2500 fake currency notes of 100 denomination to one Hareesh of Yadagirigutta (A-11), 2500 fake currency notes of hundred denomination to one Raju of Bhongir (A-12) and the police recovered 200 fake currency notes of 100 denomination totaling Rs.20,000/-, one computer, printer, monitor, CPU scanner, laser printer and two paper bundles of A-4 size being used to print the notes were seized under cover of panchanama in the presence of P.Ws.5 and 6 and then, A-4 lead the police to Siddipet where A-5 apprehended at 8:00 P.M. on 15.5.2005 near old Bus Stand. On interrogation, he confessed in the presence of P.Ws.5 and 6 that he collected thousand fake currency notes of hundred denomination from Neela Yellam. Then, he gave 200 notes to Bairi Srinivas (A-6) by taking Rs.10,000/-genuine money and he also gave 600 fake currency notes of hundred denomination to Manthoori Vittal (A-7) and Manthoori Chandu (A-8) and rest of the 200 fake notes of hundred denomination amounting to Rs.20,000/- were lying with him and the Circle Inspector of Police seized 200 fake notes of hundred denomination from the possession of A-4 under cover of

panchanama in the presence of P.Ws.5 and 6. It is further stated that A-5 lead police to the house of A-6 near Nehru Park at Siddipet. On interrogation at 9:00 P.M. on 15.5.2005, A-6 confessed that he collected 200 fake currency notes of hundred denomination from A-5 and circulated among the people, and also he introduced A-7 and A-8 to A-5, who gave 600 fake currency notes of hundred denomination to A-7 and A-8, and he brought 200 fake currency notes of hundred denomination from the house of A-6 and handed over to P.W.8, who seized the same under cover of panchanama in the presence of P.Ws.5 and 6, and on information given by A-5 and A-6, P.W.8 along with P.Ws.1 to 7 proceeded to Markandeya Temple area at Siddipet where they apprehended A-7 and A-8 at 10:00 P.M. On interrogation, they also confessed that they collected 600 fake currency notes of hundred denomination from A-5 out of which, A-8 circulated 320 notes in the market and remaining 280 notes totalling Rs.28,000/- are with them and they brought 280 fake notes of hundred denomination handed over to Circle Inspector of Police who seized the same under cover of panchanama in the presence of P.Ws.5 and 6. Then, the Circle Inspector of Police recorded the statements of P.Ws.2 to 4 and 7. It is stated that arrested A-1 to A-8 were sent to Court for judicial custody and the seized case property was deposited before the Court on 29.7.2005 and notes were also sent to the Forensic Science Laboratory, Hyderabad for analysis and after completion of investigation, the Circle Inspector of Police, Siddipet I Town filed charge sheet against A-1 to A-12 stating that the accused conspired together, got printed fake currency notes and circulated among the people and thereby, cheating the people.

A-9 to A-12 are non-locals and their whereabouts are not known and the learned Judicial First Class Magistrate, Siddipet registered a case against A-1 to A-8 for the offences under Sections 489-B, 489-C, 420 and 120-B I.P.C.

4. The learned Judicial First Class Magistrate, Siddipet, after complying the provisions under Section 207 Cr.P.C., committed the case to the Court of Sessions under Section 209 Cr.P.C. and made over the same to the Assistant Sessions Judge at Siddipet for disposal according to law.

5. On appearance of A-1 to A-8, they were examined under Section 228 Cr.P.C. and charges under Section 489-B, 489-C, 420 and 120-B I.P.C. were framed against them, read over and explained to them in Telugu for which, they pleaded not guilty and claimed to be tried.

6. On behalf of the prosecution, P.Ws.1 to 8 were examined and Exs.P-1 to P-21 were got marked besides M.Os.1 to 14.

7. After completion of the evidence on behalf of the prosecution, the accused were examined under Section 313 Cr.P.C. to explain the incriminating circumstances appearing in the evidence of prosecution for which, they denied the same. On behalf of the accused, no witness was examined, but Ex.D-1 was got marked.

8. After considering both oral and documentary evidence, the Court below found A-1 to A-8 not guilty for the offence under Section 420 I.P.C. and accordingly, acquitted them under Section 235(1) Cr.P.C. for the said offence; and found them guilty for the offences under Sections 489-B and 489-C read with Section

120-B I.P.C. and accordingly, convicted them under Section 235(2) Cr.P.C. for the said offences and sentenced them to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.2,000/- each in default, to suffer simple imprisonment for one year for the offence under Section 489-B I.P.C., and to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/- each, in default, to suffer simple imprisonment for six months for the offence under Section 489-C read with 120-B I.P.C. Aggrieved thereby, A-4 preferred Criminal Appeal No.629 of 2008 and A-1 to A-3 and A-5 to A-8 preferred Criminal Appeal No.633 of 2008.

9. Heard and perused the material available on record.

10. Section 489-B I.P.C. reads as follows:

“ 489-B. Using as genuine, forged or counterfeit currency - notes or bank-notes:- Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

The ingredients of Section 489-B I.P.C. are not proved by the prosecution in view of the fact that except the alleged confession of the accused, no other witness deposed before the Court below about the manner in which the accused circulated the currency notes and also about having knowledge about the fake currency notes. Apart from that, the recovery started from 9:00 A.M. and ended by 10:00 P.M. The notes were recovered from various persons and some witnesses accompanied the police jeep for recovering the fake currency notes and recording the statements of

the witnesses. The said witnesses also turned hostile. There is nothing to disbelieve the evidence of the officer, who recovered the money, and also the Constables, who accompanied him. Hence, this Court is of the view that the accused were in possession of the counterfeit notes. But the ingredients of Section 489-B I.P.C. i.e., circulating the fake currency notes and also having knowledge about the fake notes are not proved. Hence, this Court is of the view that the conviction imposed against A-1 to A-8 in the judgment, dated 14.5.2008, in Sessions Case No.227 of 2006 on the file of the Assistant Sessions Judge at Siddipet for the offence punishable under Section 489-B I.P.C. can be set aside while confirming the conviction imposed against the accused for the offence punishable under Section 489-C read with 120-B I.P.C.

11. In the result, the conviction and sentence imposed against A-1 to A-8 in the judgment, dated 14.5.2008, in Sessions Case No.227 of 2006 on the file of the Assistant Sessions Judge at Siddipet for the offence punishable under Section 489-B I.P.C. is set aside and accordingly, they are acquitted for the said offence. However, the conviction imposed against A-1 to A-8 in the said judgment for the offence punishable under Section 489-C read with 120-B I.P.C. is confirmed and the sentence of imprisonment imposed by the Court below for the said offence is modified to the period which A-1 to A-8 have already undergone. The fine amount, if any, is not interfered with.

12. Accordingly, these Criminal Appeals are partly allowed.

13. Miscellaneous petitions pending, if any, in these Criminal Appeals shall stand closed.

1.9.2016
AMD

JUSTICE RAJA ELANGO

THE HONOURABLE SRI JUSTICE RAJA ELANGO



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Date:1.9.2016

AMD