

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1923 of 2006

JUDGMENT:

Petitioner/accused filed this criminal revision case by invoking the provisions under Sections 397 & 401 of the Criminal Procedure Code, being aggrieved by the judgment, dated 17.11.2006, rendered in CrI.A.No.77 of 2006 by the IV Additional Sessions Judge, Warangal, whereby and whereunder the conviction and sentence of the petitioner/accused to undergo Rigorous Imprisonment for a period of six (6) months and to pay a fine of Rs.100/-, in default to suffer Simple Imprisonment for a period of two (2) days for the offence punishable under Section 409 IPC recorded in judgment, dated 26.06.2006, in C.C.No.92 of 2003, by the III Additional Judicial Magistrate of First Class at Warangal, was confirmed.

2. The brief facts, that are necessary for the disposal of the present Criminal Revision Case, may be stated as follows:

The accused was working as a Branch Post Master at Bandhuthapur Village, P.W.2 – Gadipatly Srinivasa Rao, by an account bearing No.671084 deposited an amount of Rs.9,437/- in the said post office on 10.11.2000. On 15.11.2000, the accused visited the house of P.W.2 and took his passbook by cheating and kept the same with him. From 04.06.2001 to 10.06.2001, when P.W.2 visited the post office to collect his passbook, the accused was being absented and the post office remained locked. The accused prepared and used forged documents and dishonestly misappropriated an amount of Rs.9,000/- from the account of P.W.2 without handing over the passbook to him and by filling up

withdrawal forms with forged signatures, the accused has drawn Rs.4,000/- on 21.11.2000, Rs.2,000/- on 30.11.2000 and Rs.3,000/- on 22.12.2000 and cheated him. On 13.06.2001, P.W.2 visited Wardhannapet, Sub-Post Office and came to know that the balance in his account was only Rs.622.35 Ps. On enquiry, he came to know that an amount of Rs.9,000/- was withdrawn from his account on 21.11.2000, 30.11.2000, 22.12.2000. On 14.06.2001, P.W.2 preferred a claim against the Department and made a report to the Superintendent of Post Office. The Superintendent conducted a Departmental enquiry, recorded the statements of the accused and P.W.2 on 15.06.2001 and gave a report to the Inspector of Post Offices. The said forgery came to light on the inspection done by the office. The Inspector of Post Offices took up investigation on the report of the Superintendent of Post Office and on 28.01.2003 at 6.30 hours, he arrested the accused at Wardhannapet Village and interrogated him. The accused voluntarily confessed the offence and he was sent to remand for judicial custody. After completion of the investigation, he filed the charge sheet against the accused under Sections 406, 407, 420, 468 and 471 IPC. Hence, the charge.

3. On appearance of the accused before the trial Court, the charges under Sections 406, 407, 420, 468 and 471 IPC were framed against the accused, read over and explained to him in Telugu, for which, he pleaded not guilty and claimed for trial.

4. To substantiate its case, prosecution got examined PWs.1 to 4 and marked Exs.P-1 to P-14. On behalf of defence, no oral or documentary evidence was adduced.

5. After appreciating the oral and documentary evidence available on record, the trial Court found the accused not guilty of the offences punishable under Sections 420, 468 & 471 IPC, and acquitted him under Section 248(1) Cr.P.C. The accused was found guilty of the offence punishable under Section 409 IPC and accordingly, convicted and sentenced him as stated above. Aggrieved by the conviction order, the petitioner filed Crl.A.No.77 of 2006. The lower appellate Court dismissed the appeal by confirming the order of the trial Court, by judgment, dated 17.11.2006. Challenging the same, the present revision case is filed.

6. Heard and perused the entire material available on record.

7. Learned counsel for the petitioner submitted that the service of the petitioner was only temporary and he was also removed from the service and during the entire period of trial, the petitioner was in prison and that the petitioner has served substantial period in prison.

8. 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 409 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.

9. 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 409 IPC to that of the period, which the appellant has already undergone.

10. In the result, the conviction recorded against the petitioner/accused by the III Additional Judicial Magistrate of First Class, Warangal, in C.C.No.92 of 2003, vide Judgment, dated 26.06.2006, for the offence under Section 409 IPC, as confirmed by the IV Additional Sessions Judge, Warangal, in Crl.A.No.77 of 2006, vide judgment, dated 17.11.2006, is hereby confirmed. However, the sentence of imprisonment imposed by the trial Court, as confirmed by the lower appellate Court, is modified to that of the period, which the petitioner has already undergone. However, the sentence of fine imposed by the trial Court shall not be interfered with.

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

RAJA ELANGO, J

Date: 23rd September, 2016

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