

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1152 OF 2008

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, is filed by the petitioner/appellant/A.1 challenging the judgment, dated 30.07.2008, in Criminal Appeal No.87 of 2006 on the file of Sessions Judge, Mahila Court, Vijayawada, whereunder and whereby, the learned Sessions Judge dismissed the appeal confirming the conviction and sentence imposed against him in C.C.No.1236 of 1999, dt.19.05.2006, on the file of III Additional Chief Metropolitan Magistrate, Vijayawada.

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

The petitioner/A.1, who is a resident of Durga Agraharam in Vijayawada, was doing Real estate business under the name and style of Suddepthi Plots and Flats. A.2 induced the complainant that himself and the petitioner/A.1 had planned to build a housing colony and they will allot one independent house to him at Vijayalakshmi colony, Gunadala. The complainant believing the version of the petitioner/A.1 and A.2, parted with a sum of Rs.1,50,000/- to the petitioner on different occasions in the presence of A.2. Subsequently, the petitioner evaded to provide any plot or flat to complainant and postponed the same on one pretext or the other. In spite of repeated demands, the petitioner failed to allot any plot or return the amount with a dishonest intention to cause loss to him and thereby the petitioner

committed an offence punishable under Section 420 read with 34 IPC.

3. In this case, the case against A.2 was split up on 19.08.1999 and numbered as C.C.No.280 of 1999. The present case is only against the present petitioner/A.1 only.

4. The learned Magistrate had taken cognizance for the offence under Section 420 read with 34 I.P.C. On appearance of the accused, charge was framed for the offence under Section 420 read with 34 IPC read over and explained to him, for which he pleaded not guilty and claimed to be tried.

5. To prove the said charge, prosecution examined P.Ws.1 to 6 and got marked Exs.P.1 to P.31. On behalf of defence, no oral or documentary evidence was adduced.

6. After considering both oral and documentary evidence, the trial Court found the petitioner/A.1 guilty of the offence punishable under Section 420 IPC and accordingly, convicted and sentenced to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.10,000/- in default, to undergo simple imprisonment for a period of three months. Challenging the said judgment, the petitioner preferred appeal viz., CrI.A.No.87 of 2006 before the Sessions Judge, Mahila Court, Vijayawada and the same was dismissed confirming the judgment of the trial Court. Challenging the same, the petitioner/A.1 filed the present revision case.

7. Heard and perused the material available on record.

8. Considering all the facts and circumstances of the case and from the material available on record, the learned Sessions Judge has rightly come to the conclusion that the petitioner/A.1 committed an offence punishable under Section 420 I.P.C. and accordingly, convicted him as stated supra. Hence, this Court is not inclined to interfere with the conviction imposed by the Courts below.

9. At this stage, leaned counsel for the petitioner/A.1 submits that the petitioner has suffered substantial period in prison; and that the crime pertains to the year 1999 and hence, he prays to reduce the sentence of imprisonment imposed against the petitioner.

10. Considering the facts and circumstances of the case and the submission of learned counsel for the petitioner, this Court is inclined to reduce the sentence of imprisonment.

11. In the result, the conviction imposed against the petitioner/appellant/A.1 in the judgment, dated 30.07.2008, in Criminal Appeal No.87 of 2006 on the file of Mahila Court, Vijayawada for the offence punishable under Section 420 IPC is confirmed. However, the sentence of imprisonment imposed by the first appellate Court for the said offence is reduced to the period which the petitioner/A.1 has already undergone. However, the sentence of fine imposed by the trial Court shall not be interfered with.

12. Accordingly, this Criminal Revision Case is partly allowed. Miscellaneous petitions, if any, pending in this Criminal Revision Case shall stand closed.

JUSTICE RAJA ELANGO

26.09.2016
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Date: 26.09.2016

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