

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL APPEAL No.1781 OF 2006

JUDGMENT:

This Criminal Appeal, under Section 378(4) of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), is filed by the complainant against the judgment, dated 1.7.2006, in C.C.No.72 of 2003 on the file of the Judicial First Class Magistrate-cum-Junior Civil Judge at Macherla whereunder and whereby, respondent Nos.1 to 3/A-1 to A-3 were found not guilty of the offence punishable under Section 465 read with 34 I.P.C. and acquitted for the said offence under Section 255(1) Cr.P.C.

2. The complainant filed a private complaint against A-1 to A-3 for the offences under Sections 423 and 465 read with 34 I.P.C. Case of the prosecution, in brief, is as follows:

The complainant and the accused are working as Junior Lecturers in Government Junior College, Macherla. A-1 to A-3 have created certain forged documents and counterfeited the seals of the President and Secretary of Macherla Unit Association of Government Junior Lecturers. It is further alleged that the complainant was elected as Secretary and one P.P.Krishna Reddy was elected as President to the Unit Association in the month of August, 1999 and the term period of the office was two years. The President resigned to his post due to some personal inconvenience and thereafter, all the accused conspired and created some fictitious documents and counterfeited the office seals and canvassed that A-2 was elected as President whereas A-3 was elected as Secretary of the said Association and issued a calendar on the name of the association. It is further alleged that as the accused created hurdles to the complainant to discharge his duties as Secretary of Macherla Unit Association, he filed suits against the

accused and obtained temporary injunctions. Even then, the accused violated the injunction orders and created the forged documents and office seals and thereby, they have committed the offences punishable under Sections 423 and 465 read with 34 I.P.C.

3. The complaint was taken cognizance against A-1 to A-3 for the offences under Sections 423 and 465 read with 34 I.P.C. and issued process for their appearance before the trial Court. On appearance of the accused, they were furnished with copies of complaint and other documents and the case was posted for trial before charge by the learned Magistrate under the impression that this is a private warrant procedure case.

4. To substantiate the case of the complainant, P.W.1 was examined and Exs.P-1 to P-6 were marked.

5. Upon considering the material on record, as there was no offence made out for the offence under Section 423 I.P.C., the accused were discharged for the said offence by the trial Court. After closure of the evidence on complainant side, the accused were examined under Section 313 Cr.P.C. They denied the evidence on the side of the complainant. On behalf of the accused, none was examined and no documents were marked.

6. The learned trial Judge, basing on the evidence adduced and after elaborate discussion, found the accused not guilty for the offence under Section 465 read with 34 I.P.C. and accordingly, acquitted them. Challenging the same, the complainant filed the present appeal.

7. Heard and perused the material available on record.

8. If the accused declared illegally themselves as President and Secretary while the post of P.W.1 as Secretary was in force, the complainant has to take action against A-2 and A-3 for violation of the

injunction orders. But no such case was filed by the complainant against A-2 and A-3 for violation of the injunction orders. According to P.W.1, there are 12 members in their association. Except the sole testimony of P.W.1, there is no other evidence to show that the accused created fictitious documents and counterfeited the seals. The Principal of the college or any other students, staff of the college or the members of any district or state association were examined to prove that P.W.1 continued as a Secretary from August, 1999 till the completion of his period and the accused conspired and created fictitious documents and counterfeited the seals and caused hurdles to P.W.1. The trial Court rightly held that P.W.1 failed to prove that A-1 has created the false notification of election. He also failed to prove that A-2 and A-3 counterfeited any office seals of the President and Secretary and they are liable to be punishable under Section 465 read with 34 I.P.C. In the absence of any independent and cogent and corroborative evidence, the sole testimony of P.W.1 cannot be believed as it seems that there were some disputes in the Unit Association between the accused and other members i.e., P.W.1. There is also no legally acceptable evidence to show that the accused violated injunction orders granted by this Court. Thus, the complainant has failed to bring home the guilt of the accused for the offence under Section 465 read with 34 I.P.C. beyond all reasonable doubt. Hence, the impugned judgment warrants no interference of this Court. Further, in a case of acquittal, if the trial Court consists of two views and basing on one of the views, which is in favour of the accused, acquits the accused, normally, the appellate Court will not interfere with the judgment of the trial Court unless and otherwise, the evidence adduced by the prosecution clinchingly points towards the guilt of the accused. In the present case, the learned trial Judge has considered all aspects and acquitted the accused. Hence, this Court is not inclined to interfere with the order of acquittal of the trial Court and the appeal fails and is liable to be dismissed.

9. Accordingly, this Criminal Appeal is dismissed confirming the judgment, dated 1.7.2006, in C.C.No.72 of 2003 on the file of the Judicial First Class Magistrate-cum-Junior Civil Judge at Macherla.

10. Miscellaneous petitions pending, if any, in this Criminal Appeal shall stand closed.

JUSTICE RAJA ELANGO

28.7.2016
AMD

THE HONOURABLE SRI JUSTICE RAJA ELANGO

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