

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1389 of 2006

JUDGMENT:

The petitioner-A-1 preferred the present Criminal Revision Case by invoking the provisions under Sections 397 and 401 of the Code of Criminal Procedure being aggrieved by the judgment, dated 09.08.2006, passed in CrI.A.Nos.97 and 103 of 2003 by the I Additional District & Sessions Judge, Kurnool, whereby the learned Sessions Judge dismissed the appeal by confirming the conviction and sentence imposed against the petitioner by the Judicial Magistrate of First Class, Kurnool, in C.C.No.465 of 2000, vide judgment, dated 18.08.2003.

2. The brief facts of the case that are necessary for the disposal of the present criminal revision case are as follows:

A-1 and A-2 were working as Senior Assistant and Superintendent of the Office of Chief Planning Officer. P.W.1, B. Gopal, being the Chief Planning Officer, was empowered to draw the funds relating to Janmabhumi. While he was working so, the cheque book of State Bank of India, Pass Book and concerned records were kept in the custody of A-2. A-1 with the active assistance of A-2 had encashed the amounts from the bank on the cheques from State Bank of India, Kurnool, without the knowledge of P.W.1. He also had drawn the amounts excessively by altering the figures and words on the cheques. It was contended that on 09.01.1998, P.W.1 did not issue the cheque bearing No.A/570-719399 for a sum of Rs.65,500/- in favour of himself and also did not endorse the same in favour of A-1. On 10.01.1998, A-1 presented the forged cheque in State Bank of India, Kurnool, and

withdrew an amount of Rs.65,500/- and did not handover the said amount to P.W.1. Though no cheque was issued on 07.02.1999 by P.W.1 for the amount of Rs.95,500/-, the said amount was withdrawn on the cheque bearing No.719396 by A-1, who wrote the figure Rs.95,500/- by forging his signature.

Again on 13.11.1997 though no cheque was issued by P.W.1 for a sum of Rs.95,000/- on the cheque bearing No.0633796 an amount of Rs.95,000/- was withdrawn by A-1 by writing the figures Rs.95,000/- on forging his signature (P.W.1). A-1 did not handover even the said amount of Rs.95,000/- and thus in all, he committed criminal breach of trust for a sum of Rs.2,56,000/- in total by forging the signature of P.W.1 on the cheques. Later on the complaint of P.W.1 on 20.03.1998 to the Sub-Inspector of Police, III Town Police Station, Kurnool, case was registered and that the Sub-Inspector of Police during the course of investigation sent the specimen signature of P.W.1 and forged signatures of A-1 and came to know that A-1 forged the signatures of P.W.1 for withdrawing the huge amount of Rs.2,56,000/- under the cheques which were not issued by P.W.1. Thus, A-1 being the public servant working in the capacity of Senior Assistant in the office of Chief Planning Officer by forging the signature of P.W.1 presented the forged cheques as genuine and withdrew the amount of Rs.2,56,000/- and thus, committed the offences punishable under Sections 467, 471, 409 and 420 IPC. A-2, being the public servant working as Superintendent in the office of Chief Planning Officer and was the custodian of the cheques knew fully well that A-1 forged the signatures of P.W.1 and misappropriated the Government funds by withdrawing the amounts under the cheques

which were with him and thus, committed the offences punishable under Sections 409, 420 read with 109 IPC.

3. The case was taken on file for the offences under Sections 467, 471, 409 and 420 IPC against A-1 and Sections 409, 420 read with 109 IPC against A-2. After the presence of the accused were secured, they were examined under Section 239 Cr.P.C. by the trial Court and that the trial Court had framed the charges under Sections 467, 471, 409 and 420 IPC against A-1 and Sections 409 and 420 read with 109 IPC against A-2.

4. To substantiate its case, the prosecution examined PWs.1 to 10 and got marked Exs.P-1 to P-7. On behalf of the accused, no oral evidence was adduced, but Exs.D-1 to D-6 were marked.

5. The trial Court, after considering the evidence on record, A-1 was found guilty for the offences under Sections 467, 471, 409 and 420 IPC and A-2 was found guilty for the offences under Sections 409 read with 109 and 420 read with 109 IPC and they were convicted under Section 248(2) Cr.P.C. and A-1 was sentenced to undergo Rigorous Imprisonment for a period of two (2) years and also to pay a fine of Rs.1,000/-, in default to undergo Simple Imprisonment for one (1) month for the offence under Section 467 IPC; A-1 was also sentenced to undergo Rigorous Imprisonment for a period of two (2) years and to pay a fine of Rs.1,000/-, in default to suffer Simple Imprisonment for a period of one (1) month for the offence under Section 471 IPC; A-1 was also sentenced to undergo Rigorous Imprisonment for a period of two (2) years and to pay a fine of Rs.1,000/-, in default to suffer Simple Imprisonment for a period of one (1) month for the offence

under Section 409 IPC and A-1 was also sentenced to undergo Rigorous Imprisonment for a period of two (2) years and to pay a fine of Rs.1,000/-, in default to suffer Simple Imprisonment for a period of one (1) month for the offence under Section 420 IPC and A-2 was sentenced to undergo Rigorous Imprisonment for a period of two (2) years and to pay a fine of Rs.1,000/-, in default to suffer Simple Imprisonment for a period of one (1) month for the offence under Section 409 read with 109 IPC and A-2 was also sentenced to undergo Rigorous Imprisonment for a period of two (2) years and to pay a fine of Rs.1,000/-, in default to suffer Simple Imprisonment for a period of one (1) month for the offence under Section 420 read with 109 IPC and all the sentences to run concurrently. Challenging the same, the petitioner/A-1 preferred appeal in CrI.A.No.103 of 2003 before the I Additional District & Sessions Judge, Kurnool. The learned Sessions Judge dismissed the appeal by confirming the conviction and sentence imposed against the petitioner/A-1 by the trial Court, vide judgment, dated 18.08.2003.

6. Heard and perused the material available on record.

7. 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/A-1 for the offences under Sections 467, 471, 409 & 420 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/A-1.

8. 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/A-1 for the offences under Sections 467, 471, 409 & 420 IPC to that of the period, which the petitioner/A-1 has already undergone.

9. In the result, the conviction recorded by the Judicial Magistrate of First Class, Kurnool, in C.C.No.465 of 2000, vide judgment, dated 18.08.2003, as confirmed by the I Additional District & Sessions Judge, Kurnool, in CrI.A.No.103 of 2003, vide judgment, dated 09.08.2006, for the offences under Sections 467, 471, 409 & 420 IPC against the petitioner/A-1 is hereby confirmed. However, the sentence of imprisonment imposed by the trial Court, as confirmed by the lower appellate Court, against the petitioner/A-1 for the above offences is modified to that of 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.

10. Accordingly, the Criminal Revision Case is partly allowed. Miscellaneous applications, pending if any, shall stand closed.

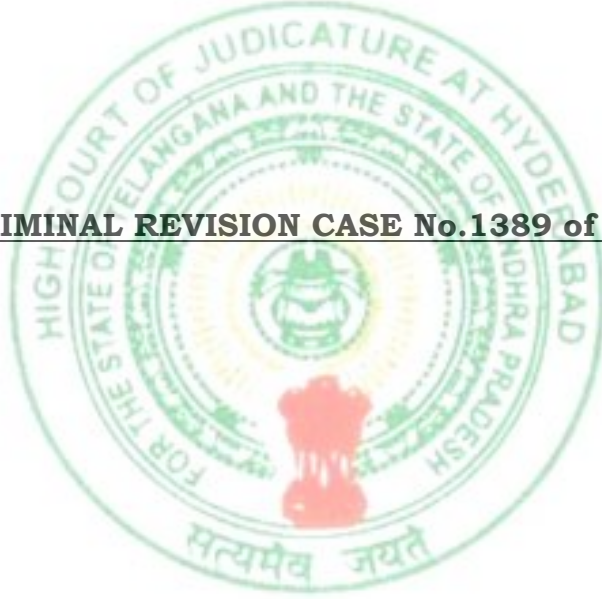
RAJA ELANGO, J

Date: 14th October, 2016

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