

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.1823 OF 2007

JUDGMENT:

This Criminal Appeal is preferred by the State through Public Prosecutor challenging the judgment of I Additional Judicial Magistrate of First Class, Kadapa, dated 28.2.2005 in C.C.No.64 of 2002, whereby the learned Magistrate acquitted A.3 & A.4 for the offences under Sections 120-B, 468, 471, 420, 177, 198, 199, 200, 201 and 202 IPC while convicting A.1 for the offences under Sections 468, 471 and 420 IPC. A.2 died on 31.1.2003 and the case against him was abated.

The facts of the case are that A.1 is the son of A.2 and both are residents of C.K.Dinne Village. A.3 is retired Superintendent Engineer, Irrigation Department, A.4 was the then Revenue Inspector in M.R.O. Office, C.K.Dinne during 1992. During 1991-92 A.2 was granted eksal permission for cultivation of land in Sy.No.1/2, to an extent of 3.27 cents of Buggalapalli village. Thereafter with the advice of A.3- Superintendent Engineer, in order to get a job as per G.O.Ms.No.98, Irrigation, dated 15.4.1986, though subsequent permission for cultivating the said land was not given, A.1 & A.2 obtained land looser certificate in connivance of A.4 for the purpose of using that false certificate as genuine. A.4 taking advantage of transfer of the then M.R.O., C.K.Dinne, obtained her signature on the said certificate and later on, A.1 created forged and false provisional National Trade Certificate showing A.1 as if he had studied Draftsman

Civil Course (Grade-I) during 1985-87 and with those forged certificates, A.1 and A.2 approached A.3, who prepared an application for A.1 for the post of Work Inspector Grade-IV in Irrigation Circle and advised A.1 & A.2 to approach District Collector, Kadapa. After forwarding the application to the Superintendent Engineer, Chittoor by the Collector, appointment orders were issued to A.1 on 4.7.1992 and allotted to the office of A.3. Though the Department through the proceedings dated 4.7.1992 instructed A.3 to verify the certificates of A.1 at the time of his joining, without complying the said instructions, A.3 got joined A.1 in service. Upon the representation made by one C.Vijayamohan Reddy regarding the mischief and fraud played by A.1 with the assistance of A.2, investigation was taken up on 18.10.2000 and after completion of investigation, police laid the charge sheet against all the accused for the above said offences.

In order to bring home the guilt of the accused, prosecution got examined P.Ws.1 to 23 and got marked Exs.P.1 to P.66. On behalf of defence, D.Ws.1 and 2 were examined and Exs.D.1 to D.7 were marked.

Heard the learned Additional Public Prosecutor and learned counsel appearing for respondents-A.3 & A.4 and perused the material available on record.

The trial Court discussed the evidence brought on record in elaborate and was of the view that the evidence adduced by the prosecution has suffered with certain

infirmities and discrepancies and that the respondents-A.3 & A.4 were able to raise reasonable doubts in the evidence adduced by the prosecution. Further the learned trial judge was of the view that on evaluation of evidence brought on record, two views are possible and that he has considered the view that is in favour of A.3 & A.4 and recorded the acquittal.

This Court perused the judgment of the trial Court. When two views are possible on the evidence adduced in the case, one pointing out the guilt of the accused and the other of his innocence, the view which is favourable to the accused should be adopted. In the present case also, basing on the said principle, the trial Court has rightly acquitted A.3 & A.4-respondents herein. While exercising the powers in appeal against the order of acquittal, the court of appeal would not ordinarily interfere with the order of acquittal unless the approach of the lower court is vitiated by some manifest illegality. Since no manifest illegality is pointed out in the impugned judgment, this Court is not inclined to interfere with the order of acquittal.

In the result, the Criminal Appeal fails and the same is accordingly dismissed.

Miscellaneous petitions, if any, filed in this appeal shall stand closed.

JUSTICE RAJA ELANGO

24.08.2016
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