

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.497 of 2005

JUDGMENT:

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This Criminal Revision Case is preferred by the petitioner against the Judgment, dated 08.12.2004 passed in CrI.A.No.143 of 2004 by the Principal Sessions Judge, Eluru, whereby the learned Sessions Judge confirmed the conviction and sentence imposed by the Additional Judicial Magistrate of First Class, Tadepalligudem in CC No.128 of 2004 vide Judgment, dated 03.08.2004.

The case of the prosecution is as follows:

One G. Nandakishore Singh, Ram Bilas Sharma and Balwan Singh are employees in a company i.e. M/s.Delhi Assam Roadways Corporation Limited, Vijayawada and on 29.05.2003 the company carried 15 pieces of Aluminium saw ingots worth Rs.8,56,146/- from Angul to Bangalore through truck No.ORX 7150. A1 to A4 conspired together with a common intention to misappropriate the consignment. A1 is the driver of the vehicle and A3 is the cleaner. On 01.06.2003, when the lorry reached Ananthapalli bridge in the outskirts of the village, A4 came across the lorry and stated to A1 and A3 that the consignment in the lorry was sold away secretly, and thereby diverted the lorry to Medisettivaripalem village in Chintalpudi Mandal and parked it by the side of R&B road and they unloaded the aluminium ingots into another lorry and also removed the four tyres of the lorry and disposed of the same. As the consignment did not reach the destination by 04.06.2003, LW.1 enquired A1, for which A1 stated that some unknown persons forcibly took away the truck along with the consignment at the bye-pass road between Rajahmundry and Eluru and kidnapped A2 and A3 and left them after two days. Then, LW.1 lodged a complaint with the Ananthapalli Police. On the basis of the complaint lodged by LW.1, a case in Crime No.75 of 2003 was

registered against all the accused and investigated into. The police arrested A3 on 16.07.2003. A1, A2 and A4 absconded from the village. After completion of investigation, the SHO, Ananthapalli Police Station filed charge sheet.

Cognizance was taken against the accused (A3) under Sections 420, 406, 403, 407 and 120-B IPC. On appearance of the accused, the charges were read over and explained to him in Oriya, for which he pleaded not guilty and claimed to be tried. During the course of trial, the prosecution examined PWs.1 to 10 and marked Exs.P.1 to P.11 besides MO.1. No oral or documentary evidence was adduced on behalf of the accused.

On appreciation of oral and documentary evidence, the trial Court found the petitioner-A3 guilty of the offences under Sections 420, 406, 403, 407 and 120-B IPC, and accordingly convicted and sentenced him to suffer simple imprisonment for one year and to pay a fine of Rs.25/- in default to suffer simple imprisonment for three days each for the offences punishable under Sections 420 and 407 IPC, and to suffer simple imprisonment for one year for the offence punishable under Section 406 IPC and also sentenced to suffer simple imprisonment for one year for the offence punishable under section 403 IPC and also sentenced to undergo simple imprisonment for a period of six months for the offence punishable under Section 120-B IPC. Aggrieved by the same, the petitioner – A3 preferred appeal in Crl.A. No.143 of 2004 before the Principal Sessions Judge, Eluru. The learned Sessions Judge, after re-appreciation of the evidence, dismissed the appeal and confirmed the conviction and sentence passed by the trial Court. Challenging the same, the present revision is preferred by the petitioner – A3.

Heard and perused the entire material available on record.

After evaluating the evidence and after considering the material available on record, this Court of the view that there are no valid reasons to interfere with the Judgments of the Courts below in convicting the petitioner – A3 for the offences punishable under Sections 420, 406, 403, 407 and 120-B IPC.

When this Court pointed out that there are no merits in the revision, learned counsel for the petitioner – A3 restricted his arguments to the quantum of sentence, and prayed that as the petitioner has suffered sufficient period in the prison and he is from the other State, a lenient view may be taken.

Considering the facts and circumstances of the case and the time elapsed, this Court is inclined to reduce the sentence of imprisonment imposed by the trial Court on the petitioner – A3 for the above offences, to that of the period, which the petitioner has already undergone.

In the result, the conviction recorded by the Additional Judicial Magistrate of First Class, Tadepalligudem, vide judgment, dated 03.08.2004, in CC No.128 of 2004, as confirmed by the Principal Sessions Judge, Eluru, vide judgment, dated 08.12.2004, in CrI.A. No.143 of 2004, for the offences under Sections 420, 406, 403, 407 and 120-B IPC is hereby confirmed. However, the sentences of imprisonment imposed by the trial Court, as confirmed by the appellate Court, against the petitioner under that above heads, are reduced to that of the period, which the petitioner has already undergone for each of the offence. The fine amount is not interfered with.

Accordingly, the Criminal Revision Case is partly allowed. Consequently, miscellaneous applications, if any pending, shall stand

closed.

August 01, 2016.
KTL

RAJA ELANGO, J