

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.236 of 2008

JUDGMENT:

Petitioner/accused filed this criminal revision case by invoking the provisions under Sections 397 & 401 of the Criminal Procedure Code, being aggrieved by the judgment, dated 07.02.2008, rendered in Criminal Appeal No.241 of 2007 by the Principal Sessions Judge, East Godavari District, Rajahmundry, whereby and whereunder the conviction and sentence of the petitioner/accused to undergo Rigorous Imprisonment for a period of three (3) years and to pay a fine of Rs.5,000/-, in default to suffer Simple Imprisonment for a period of three (3) months for the offence punishable under Section 409 IPC recorded in judgment, dated 27.08.2007, in C.C.No.567 of 2006, by the Judicial Magistrate of First Class, Rampachodavaram, was confirmed.

2. The brief facts, that are necessary for the disposal of the present Criminal Revision Case, may be stated as follows:

The accused worked as Sub-Post Master, Maredumilli Post Office from 16.05.1998 to 08.03.2001. On 05.10.2000, the accused paid bonus bill amounts of Rs.3,194/-, Rs.3,657/- and Rs.4,124/- vide acquittance Roll Nos.673, 637 & 488 to B.R.Sitharamaraju, A.Raja Rao and Siddabatula Vadapalli, who worked as EDMC/DA at Vetukuru, EDMC/DA Kutrawada and EDDA Maredumilli respectively. The accused charged the same to the sub-office daily account. He was supposed to send the account to the head office, Rajahmundry immediately for making necessary entries in the accounts section there. On 06.10.2000, he also had shown payments of Rs.3,067/- and Rs.3,657/- vide acquittance

Roll Nos.673 & 488 respectively to one G. Sadasivayya the then B.P.M., Vetukuru and A. Nagaraju, EDMC. All the said amounts were charged and entered in the daily account sheet and submitted to the head office, Rajahmundry, on 09.10.2000 and 10.10.2000. On 10.10.2000, Yedla Ramabai, Accounts Clerk in the head office at Rajahmundry entered the same in the bills paid register and on verification of the previous day's entries regarding the Maredumilli sub-post office, she came to know that the accused charged the amount of Rs.10,975/- twice to the post office account and, therefore, she informed to the then Superintendent of Post Offices, Rajahmundry, viz., N.N. Reddy about the irregularity and the latter ordered for necessary enquiry appointing G. Suryanarayana, Assistant Superintendent of Post Offices, Rajahmundry, as the Enquiry Officer. Accordingly, the Assistant Superintendent of Post Offices, conducted necessary enquiry and sent his report to the Superintendent of Post Offices, Rajahmundry, and on that basis the latter found the accused guilty of committing the said charge and awarded reduction of pay and further on a report given by the *de facto* complainant P.S.R. Prasad, the Superintendent of Post Offices, Rajahmundry, the Sub-Inspector of Police, Maredumilli Police Station, registered the case in Crime No.27 of 2005 under Section 409 IPC on his file and he also conducted the investigation of the case and filed ultimately charge sheet before the trial Court.

3. On appearance of the accused before the trial Court, the charge under Section 409 IPC was framed against the accused, read over and explained to him, for which, he pleaded not guilty and claimed for trial.

4. To substantiate its case, prosecution got examined PWs.1 to 11 and marked Exs.P-1 to P-16. On behalf of defence, no oral or documentary evidence was adduced.

5. After appreciating the oral and documentary evidence available on record, the trial Court found the accused guilty of the offence punishable under Section 409 IPC, and accordingly, convicted and sentenced him as stated above. Aggrieved by the conviction order, the petitioner filed Crl.A.No.241 of 2007. The lower appellate Court dismissed the appeal by confirming the order of the trial Court, by judgment, dated 07.02.2008. Challenging the same, the present revision case is filed.

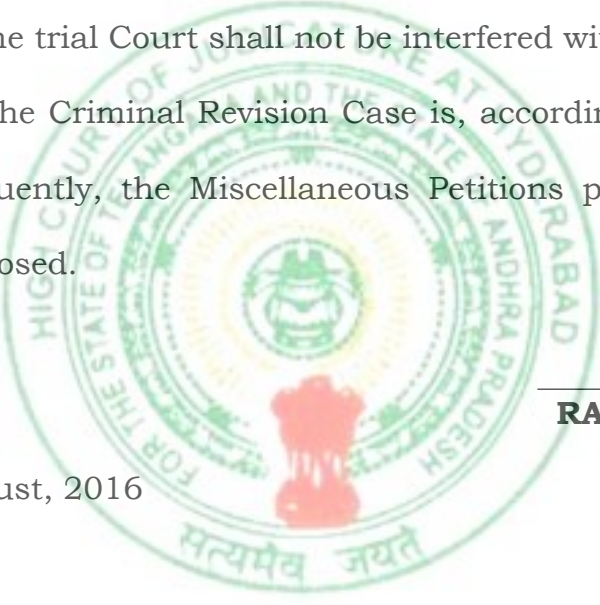
6. Heard and perused the entire material available on record.

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/accused for the offence under Section 409 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.

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 for the offence under Section 409 IPC to that of the period, which the appellant has already undergone.

9. In the result, the conviction recorded against the petitioner/accused by the Judicial Magistrate of First Class, Rampachodavaram, in C.C.No.567 of 2006, vide Judgment, dated 27.08.2007, for the offence under Section 409 IPC, as confirmed by the Principal Sessions Judge, East Godavari District, Rajahmundry, in Crl.A.No.241 of 2007, vide judgment, dated 07.02.2008, is hereby confirmed. However, the sentence of imprisonment imposed by the trial Court, as confirmed by the lower appellate Court, is modified to that of the period, which the petitioner has already undergone. However, the sentence of fine imposed by the trial Court shall not be interfered with.

10. The Criminal Revision Case is, accordingly, allowed in part. Consequently, the Miscellaneous Petitions pending, if any, shall stand closed.



RAJA ELANGO, J

Date: 9th August, 2016

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