

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.89 OF 2008

ORDER:

This Criminal Revision Case is filed by the petitioners/A-1 to A-3 under Sections 397 and 401 Cr.P.C. challenging the judgment, dated 25.1.2008, in Criminal Appeal No.316 of 2007 on the file of the Metropolitan Sessions Judge at Nampally, Hyderabad whereunder and whereby, the learned Sessions Judge, while dismissing the appeal filed by the petitioner against the judgment, dated 10.9.2007, in C.C.No.126 of 2004 on the file of the X Additional Chief Metropolitan Magistrate, Secunderabad, altered the sentence of imprisonment from one year to six months.

2. The offence alleged against the petitioners is under Section 448 read with 34 I.P.C. Case of the prosecution is that the petitioners, with a common intention, have illegally trespassed into the semi finished flat of the *de facto* complainant, who purchased the same from one Dr.Vasantha, and occupied the same along with their families. On the basis of the complaint of the *de facto* complainant, Crime No.97 of 2003 was registered and after completion of investigation, charge sheet was filed.

3. Cognizance was taken against the accused for the offence under Section 448 I.P.C. After appearance of the accused, they were charged under Section 448 read with 34 I.P.C. and they pleaded not guilty. So, the accused were placed for trial. The prosecution examined four witnesses and marked five documents. After considering the oral and documentary evidence on record, the trial Court found the accused guilty for the offence under Section 448 read with 34 I.P.C. and accordingly, convicted them under Section 255(2) Cr.P.C. and sentenced to undergo simple imprisonment for a period of

one year each and to pay a fine of Rs.1,000/- each, in default, to suffer simple imprisonment for a period of one month each. Challenging the same, the accused preferred Criminal Appeal No.316 of 2007 on the file of the Metropolitan Sessions Judge at Nampally, Hyderabad and the same was dismissed. However, learned Sessions Judge altered the sentence of imprisonment from one year to six months. Challenging the said judgment, the petitioners filed this Criminal Revision Case.

4. Heard and perused the material available on record.

5. As the conviction imposed by the Courts below is concurrent in nature, this Court is not inclined to interfere with the conviction imposed on the petitioners by the learned Sessions Judge in Criminal Appeal No.316 of 2007 on the file of the Metropolitan Sessions Judge at Nampally, Hyderabad for the offence under Section 448 read with 34 I.P.C., and the same is confirmed. However, taking into consideration of the fact that the petitioners are aged 56, 80 and 58 years respectively and suffering from several health problems, the sentence of imprisonment imposed on them by the learned Sessions Judge is modified to the period which they have already undergone. With regard to the sentence of fine, the petitioners are directed to pay another Rs.1,000/- (Rupees one thousand only) each towards fine on or before 24.8.2016 and in default, to undergo simple imprisonment for a period of three months each. On such payment of the fine amount, the said amount shall be given to the *de facto* complainant by the trial Court towards compensation.

6. Accordingly, this Criminal Revision Case is partly allowed.

7. Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.

JUSTICE RAJA ELANGO

AMD

—
—
—
—
—
—

—
—
—
—
—
—
—
—
—
—

NOTES

CRIMINAL REVISION CASE No.89 OF 2008

Date: 20.7.2016

AMD