

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.1206 of 2005

JUDGMENT:

This revision is preferred under Sections 397 and 401 of Code of Criminal Procedure (fort short "Cr.P.C.") questioning, the property disposal Order dt.21.02.2005 passed by II Additional District and Sessions Judge (FTC), Srikakulam, in Criminal Appeal No.53 of 2001, under Section 454 Cr.P.C., confiscating Mo.1--Rs.14,800/- to the State.

The petitioner is the *de facto complainant*, who lodged a complaint against the unknown culprits with the police, alleging that 19/20-1-1999 some unknown persons committed theft of Rs.1,16,000/- from his house after gaining entrance into his house. On the strength of the complaint, the Police registered the same as a case in Cr.No.7 of 1999 for the offences under Sections 457 & 380 or 411 IPC and during investigation, the Police collected finger prints from the scene of offence and on the strength of the same, they identified the culprits and after completion of investigation, they filed charge sheet against the accused before the concerned Court.

The trial Court, after following necessary procedure and securing the presence of the accused, framed charges against the accused for the offences under Sections 457 and 380 or alternatively under Section 411 IPC. The same were read over and explained to the accused in Telugu and he denied the same and claimed to be tried.

During trial, on behalf of prosecution, Pws. 1 to 7 were examined and Exs. P.1 to P.8 and Mos.1 to 4 were marked. After closure of prosecution evidence, the accused was examined under

Section 313 Cr.P.C. explaining the incriminating material appeared against the accused, he denied the same and reported no defence.

Upon hearing both the counsel, the trial Court found the accused guilty for the offences under Sections 454 and 380 IPC and sentenced him to undergo SI for a period of one year and 6 months respectively besides imposing fine with default sentence.

The conviction and sentence imposed by the trial Court in C.C.No.57 of 1999 was assailed in the appeal and the same was set aside by the Appellate Court in Crl.A.No.53 of 2001, acquitting the accused for the charges levelled against him, while ordering confiscation of Mo.1 to the State, reversing the Order passed by the trial Court ordering return of Mos. 1 and 2 i.e., Cash of Rs.14,800/- and Iron Atlapulla respectively, as the appellant herein could not identify the currency notes.

The main contention raised before this Court is that in normal course of events, no person note down the numbers of the currency notes kept in their custody and thereby confiscation of Mo.1 i.e., Rs.14,800/- to the State is illegal and prayed to set aside the same.]

The learned Public Prosecutor for the State of Andhra Pradesh supported the order of confiscation.

The only reason for ordering confiscation of Mo1. to the State is that the Appellant/complainant could not identify the currency notes. Identification of cash when produced before the Court is a difficult task for anybody since in normal course of events, no person will note down the number of currency notes or specific identification marks. That apart, total amount committed from the house of the complainant was Rs.1,06,000/-. Out of Rs.1,06,000/-, only Rs.14,800/- was recovered,

which is marked as Ex.Mo.1. When such huge amount was stolen from the house of the complainant by unknown persons, normally it is very difficult for anybody to identify each and every currency note. Therefore, ordering confiscation of Mo.1 to the State by exercising power under Section 454 IPC on the ground that Appellant unable to identify the currency notes with specific identification is illegal. Therefore, the order passed by the Appellate Court ordering confiscation of Mo.1 i.e., Rs.14,800/-, to the State is liable to be set aside. Hence, the Property Order dt.21.02.2005 passed in Crl.A.No.53 of 2001 by the appellate Court is set aside, restoring the Order passed by the trial Court, directing return of Mos. 1 and 2 to the Appellant herein.

Accordingly, this Criminal Revision Case is allowed directing the trial Court to return Mos. 1 and 2 to the Appellant herein and in case, it is deposited to the credit of the State, the Collector, Srikakulam, is directed to pay Rs.14,800/- to the Appellant/Baratam Mohana Rao under proper acknowledgment.

Consequently, miscellaneous applications pending, if any, shall also stand dismissed.

JUSTICE M. SATYANARAYANA MURTHY

Date:24.08.2017
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HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.R.C. No.1206 of 2005
Dt. 24-08-2017

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