

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL REVISION CASE NO.497 of 2007

ORDER:

This Criminal Revision Case by the petitioner-accused under Sections 397 and 401 Cr.P.C. is directed against the judgment dated 03.04.2007 in Criminal Appeal No.3 of 2005 on the file of the Metropolitan Sessions Judge, Cyberabad-cum-I Additional District & Sessions Judge, Ranga Reddy District, at L.B. Nagar, Hyderabad.

2. Heard the learned counsel for the petitioner-accused, the learned Assistant Public Prosecutor appearing for respondent-State and perused the record.

3. Case of the prosecution, in brief, is as follows:

Accused floated marriage scheme under the name and style 'Lakshmi Kalyana Pendli Kanuka'. Under the scheme, there should 1,000 members and each member has to pay Rs.200/- on application and Rs.2,000/- as membership fee besides Rs.1,250/- per month till the bride gets married, and in lieu of the above, the accused would pay an amount of Rs.75,000/- at the time of marriage. Believing version of the accused, P.Ws.1 to 8 and others joined the scheme by paying the amounts accordingly. But, the accused failed to pay Rs.75,000/- as promised and cheated them. Basing on the report lodged by P.W.1, police registered a case in crime No.511 of 1998 of Saroornagar police station, Cyberabad for the offence punishable under Section 420 IPC and after completion of investigation, laid charge sheet before the Additional Judicial Magistrate of First Class, Hyderabad East & North, Ranga Reddy District.

4. After taking cognizance of the said case for the offence punishable under Section 420 IPC, the learned Magistrate examined the accused under Section 239 Cr.P.C., and framed charge for the offence punishable under Section 420 him. When the charge was read over and explained to him, he pleaded not guilty and claimed to be tried.

5. To substantiate his case, the prosecution examined P.Ws.1 to 9 and got marked Exs.P1 to P42.

6. After closure of the prosecution evidence, accused was examined under Section 313 Cr.P.C. with reference to the incriminating evidence found against him in the evidence of prosecution witnesses. He denied the same. No oral or defence evidence was adduced on behalf of the accused.

7. Vide judgment dated 23.12.2004 in C.C. No.1442 of 1999, the trial Court found the accused guilty of the offence punishable under Section 420 IPC, accordingly convicted him and sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of Rs.2,000/- in default to suffer simple imprisonment for a further period of two months. Challenging the same, the accused preferred the above appeal. The appellate Court, vide the impugned judgment, partly allowed the appeal confirming the conviction recorded by the trial Court and modifying the sentence of imprisonment from rigorous imprisonment for two years to rigorous imprisonment for six months. Challenging the same, the present revision is filed by the accused.

8. Learned counsel for accused would contend that both the courts below erred in convicting and sentencing the accused for the offence punishable under Section 420 IPC;

that there is no evidence to substantiate the requirements of the said offence, and ultimately, prayed to allow the revision as prayed for.

9. On the other hand, the learned Assistant Public Prosecutor would submit that there is ample evidence on record to prove the prosecution case against the accused; that there is intention on the part of accused to deceive right from the beginning; that both the courts below, upon consideration of the entire evidence on record, rightly convicted and sentenced accused and in the absence of any perverse findings, there are no grounds to interfere with the concurrent findings of the courts below, and ultimately, prayed to dismiss the revision.

10. Now the point that arises for consideration is whether the findings of both the courts below are legal, proper and correct?

11. Revisional jurisdiction of this Court under Section 401 Cr.P.C. is a truncated one. Unless the findings are based upon no evidence or perverse, or that inadmissible evidence was taken into consideration in convicting the accused or that admissible evidence was overlooked, normally the revisional powers cannot be exercised to disturb the concurrent findings of the two courts below.

12. There is specific evidence on record that the accused floated a marriage scheme under the name and style 'Lakshmi Kalyana Pendli Kanuka' and joined 1,000 members, and collected Rs.200/- on application and Rs.2,000/- as membership fee besides Rs.1,250/- per month, till the bride gets married. There is evidence to show that believing the same, number of persons joined the said

scheme. There is also evidence on record that the accused failed to pay an amount of Rs.75,000/- at the time of marriage as promised, besides money invested by the subscribers. There is evidence of P.Ws.1 to 8 supporting the same. Believing promise of the accused, P.Ws.1 to 8 and others joined the scheme by paying the amounts. P.W.9 is the investigating officer who invested into the case. P.Ws.1 to 8 are independent persons. There is no reason for them to depose falsely against the accused. Exs.P3 to P41- receipts, which are in the hand-writing of the accused show the subscription paid by the prosecution witnesses. Ex.P2-phamplet shows that the accused floated the scheme under the name and style 'Lakshmi Kalyana Pendli Kanuka'. There is evidence on record to substantiate the prosecution case for the offence punishable under Section 420 IPC. The accused has no license or authority to circulate the subject scheme and collect huge amounts from P.Ws.1 to 8 and other persons. There is default on the part of the accused in payment of money subscribed by the prosecution witnesses and others.

13. Both the courts below rightly appreciated the entire evidence on record and recorded concurrent findings with regard to guilt of the accused. There is ample evidence to substantiate the allegations against the accused. The ingredients to constitute the offence punishable under Section 420 IPC are proved beyond all reasonable doubt. Both the Courts below elaborately dealt with the oral and documentary evidence and acted on the basis of the admissible evidence on record, and rightly found accused guilty, accordingly, convicted and sentenced him. The findings of the Court below are based on proper appreciation of evidence on record. There is nothing to take a different view. There is no illegality or miscarriage of justice. The concurrent findings need not be

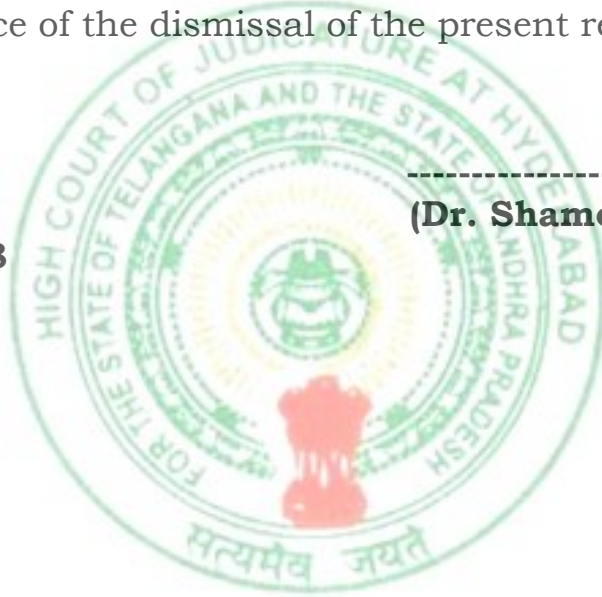
interfered with regard to conviction and sentence. The appellate Court had taken a lenient view in imposing sentence of imprisonment. There are no grounds to interfere with the same. The revision case is devoid of merit and is liable to be dismissed.

14. In the result, the Criminal Revision Case is dismissed confirming judgment dated 03.04.2007 in Criminal Appeal No.3 of 2005 on the file of the Metropolitan Sessions Judge, Cyberabad-cum-I Additional District & Sessions Judge, Ranga Reddy District, at L.B. Nagar, Hyderabad.

The trial Court is directed to take consequential steps in pursuance of the dismissal of the present revision.

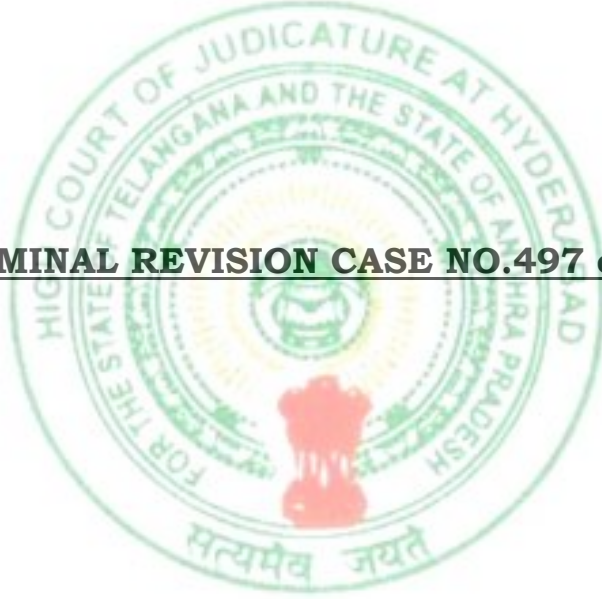
25.04.2018
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(Dr. Shameem Akther, J)



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