

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CRIMINAL APPEAL No.1676 OF 2004

JUDGMENT:

This appeal is filed by the State under Sub-section (1) of Section 377 Cr.P.C., challenging enhancement of the sentence imposed against accused No.1 by judgment dated 04.7.2003 passed in C.C.No.908 of 2002 on the file of the Court of Special Judicial First Class Magistrate (Mobile), R.R. District, L.B. Nagar, Hyderabad, wherein and whereby the trial Court found accused No.1 guilty of the offence under Section 420 of IPC, convicted and sentenced him to suffer simple imprisonment for a period of one year and to pay a fine of Rs.1,000/- in default to suffer simple imprisonment for a period of thirty (30) days.

2. One B.Janardhan Reddy-P.W.1 lodged a complaint-Ex.P.2 on the file of the Court of Additional Judicial First Class Magistrate, West and South, Rangareddy, under Section 200 of Cr.P.C., against accused Nos.1 and 2, who are father and son respectively, for the offences under Sections 420, 468 and 506 of IPC. The learned Magistrate forwarded the complaint under Sub-section (3) of Section 156 Cr.P.C., to the Station House Officer, Chandanagar Police Station for investigation and report on 18.6.1999, who in turn registered a case in Crime No.189 of 1999, issued the First Information Report-Ex.P.33 and investigated into.

3. After completion of the investigation, the Station House Officer, Chandanagar Police Station filed the charge sheet on the file of the Court of the Additional Judicial First Class Magistrate, West and South, Rangareddy against accused Nos.1 and 2 for the offences under Sections 420, 468 and 506 of IPC. The learned

Magistrate took the cognizance of offence under Sections 420, 468 and 506 of IPC and numbered the charge sheet as C.C.No.97 of 2000. Subsequently, the case was transferred to the Court of Special Judicial First Class Magistrate (Mobile), R.R. District at L.B. Nagar, Hyderabad, and re-numbered as C.C.No.908 of 2002.

4. The case of the prosecution in brief is that accused No.1 entered into an agreement of sale with the complainant-P.W.1 agreeing to sell an extent of Acs.9.20 guntas of land situated in survey Nos.100/1 and 101/1 of Serilingampally Village and Mandal, Ranga Reddy District for an amount of Rs.4,75,000/-. Accused No.1 received the full sale consideration by receiving Rs.3,15,000/- in cash and Rs.1,00,000/- and Rs.60,000/- in the form of Demand Draft Nos.000796, dated 24.11.1996 and 000797, dated 24.12.1996 respectively and issued the receipt-Ex.P.5 dated 24.12.1996. The accused executed registered sale deed in favour of the complainant-P.W.1 in respect of Acs.4.00 in survey No.101/1 on 26.12.1996 promising to register the sale deed in respect of the remaining extent of Acs.5.20 guntas in a short time. The accused by forging the signatures of one Naresh Chand on the sale deed dated 26.12.1996 got registered sale deed in favour of the complainant-P.W.1 in respect of Acs.4.00 of land. The complainant-P.W.1 filed O.S.No.643 of 1997 on the file of the Court of II Additional Senior Civil Judge, Ranga Reddy District, for specific performance of agreement of sale in respect of Acs.5.20 guntas. The accused filed O.S.No.655 of 1997 for recovery of possession of Acs.4.00 of land from the complainant-P.W.1 claiming that he is the owner of the land. While the things stood thus, the complainant-P.W.1 had received a legal notice issued by

one Mrs.Surchi Chand stating that accused have no right to sell the land covered by survey Nos.100/1 and 101/1, without her consent and approval, as her husband by name Naresh Chand, who is the owner of the property, expired. In the notice, it is further stated that Mrs.Surchi Chand also got issued paper publication in Deccan Chronicle on 27.11.1995 indicating that she became the owner of the property covered by survey Nos.100/1 and 101/1 by virtue of the Arbitration Award. The complainant-P.W.1 had also received notice in LGC No.29 of 1999 filed by one E.Venkat Reddy against the complainant, accused No.1 and his brothers on the file of the Special Court under Land Grabbing Act, Hyderabad. As per the Gazette Notification dated 24.8.1992 published by the Government of Andhra Pradesh, one Syed Ali Mohammed Hussaini is the owner of the land covered by survey Nos.100/1 and 101/1 of Serilingampally Village and Mandal, Ranga Reddy District. Subsequent to registration of the sale deed-Ex.P.4 in favour of the complainant-P.W.1 in respect of Acs.4.00 of land in survey Non101/1, accused Nos.1 and 2 along with goondas came to the land and threatened him to vacate the same.

5. On appearance of the accused, learned Magistrate had supplied the necessary copies of the documents as contemplated under Section 207 of Cr.P.C., and framed charges for the offences under Sections 420, 468 and 506 of IPC, read over and explained to them in Telugu for which they pleaded not guilty and claimed to be tried.

6. To bring home the guilt of the accused, P.Ws.1 to 6 were examined and Exs.P.1 to P.35 were marked. To dislodge the case

of the prosecution, D.Ws.1 to 4 were examined and Exs.D.1 to D.11 were marked.

7. Basing on the oral, documentary evidence and other material available on record, the trial Court arrived at a conclusion that the accused No.1 guilty of the offence under Section 420 of IPC, convicted and sentenced him to undergo simple imprisonment for a period of one year and also to pay a fine of Rs.1,000/- in default to suffer simple imprisonment for a period of thirty (30) days. Seeking enhancement of the sentence imposed against accused No.1, the State preferred the present appeal.

8. The appeal is confined to the quantum of sentence only. Accused No.1 might have filed appeal challenging the conviction and sentence imposed against him under Section 420 of IPC; therefore, this Court is not inclined to go into the merits of the main case.

9. It is not in dispute that accused No.1 executed agreement of sale in favour of the complainant agreeing to sell Acs.9.20 guntas of land in survey Nos.100/1 and 101/1 of Serilingampally Village and Mandal, Ranga Reddy District. Even as per the version of the prosecution, accused No.1 executed Ex.P.4 registered sale deed in respect of an extent of Acs.4.00 in survey No.101/1 in favour of P.W.1. A perusal of the record reveals that P.W.1 filed O.S.No.643 of 1997 on the file of the Court of II Additional Senior Civil Judge, Ranga Reddy District, for specific performance of agreement of sale in respect of Acs.5.20 guntas. Accused No.1 filed O.S.No.655 of 1997 for recovery of possession of Acs.4.00 of land from the complainant-P.W.1 stating that he is the owner of the land. The

material placed before the Court clinchingly establishes that civil disputes are pending between the parties. As on the date of pronouncement of the judgment in the year 2002, accused No.1 was aged 75 years. A perusal of the record reveals that the trial Court, considering the age and health condition of accused No.1, took a lenient view and sentenced him to undergo simple imprisonment for one year and pay a fine of Rs.1,000/- in default to suffer simple imprisonment for thirty (30) days.

10. It is needless to say that while imposing the sentence, the court has to consider the mitigating circumstances. It appears that the trial Court has taken into consideration the nature of the litigation between P.W.1 and accused No.1. A perusal of the record reveals that the accused No.1 is aged about 91 years.

11. Having regard to the facts of the case on hand, I am of the considered view that the trial court has not committed any error much less legal error while imposing the sentence. Viewed from any angle, the quantum of sentence imposed against the respondent No.2 with the gravity of the offence. There are no grounds much less valid grounds to enhance the sentence imposed by the trial Court.

12. Accordingly, the criminal appeal is dismissed. Miscellaneous petitions, if any pending in this appeal shall stand closed.

T. SUNIL CHOWDARY, J

Date: 07.2.2018

YS