

THE HON'BLE Dr. JUSTICE G. RADHA RANI**CRIMINAL REVISION CASE No. 280 OF 2016****ORDER:**

1. This Criminal Revision Case is filed by the petitioners/respondents/accused aggrieved by the judgment dated 08.12.2015 passed in Criminal Appeal No. 26 of 2015 on the file of the I Additional Sessions Judge, Warangal reversing the judgment dated 30.07.2014 passed in C.C. No. 291 of 2009 on the file of the III Additional Judicial Magistrate of I Class, Warangal remitting back the matter to the Trial Court for fresh consideration.

2. The complainant lodged a complaint under Section 200 Cr.P.C. and the same was referred to Station House Officer of Police Station, Geesugonda and the police after conducting investigation filed charge sheet against accused Nos. 1 to 6 for the offences under Sections 420, 468, 471 and 506 IPC.

3. The case of the prosecution as per the charge-sheet filed by the police was that the complainant was a resident of Gorrekunta, Warangal. She was having land to an extent of 600 Sq. yards at Narsampet in Survey No. 4/G and 5 and she offered to sell her land and A1, A2 and LW5 – V. Laxmaiah purchased 300 Sq. yards , 150 Sq. yards and 150 Sq. yards each respectively under simple sale deeds on 02.04.1996. Due to some reasons, the accused and LW5 – V. Laxmaiah could not register the land in their names. In the year 2006, LW5 –

V. Laxmaiah sold away part of his land to one K. Bhupal Rao and got it registered. At the time of registration, the complainant was shown as owner of the remaining part of the land. A1, A2 and LW5 – V Laxmaiah affixed their signatures on the sale deed as witnesses. The complainant visited the Registrar office and affixed her signatures on the sale deed. A1 and A2 asked the husband of the complainant to register the above land in their names. Taking advantage of the registered sale deed of LW6 – K. Bhupal Rao, in which, it was mentioned that the complainant was the owner of the remaining land, the husband of the complainant demanded A1 and A2 an additional amount of Rs.2,00,000/- stating that the prices of the lands were increased. Several panchayats took place. The elders advised the complainant to execute registered sale deeds in favour of A1 and A2, but they refused. While so, A1 and A2 prepared a passport photograph of the complainant in consultation with the photographer and consulted with A6 and prepared forged documents and got registered the land in the name of A1 and A2 by producing the forged documents and impersonating A3, wife of A1 as the complainant. A4 and A5 attested their signatures as witnesses on the registered document. Knowing about the same, the husband of the complainant visited A1 and A2 in their absence and questioned their family members. Later, A1 and A2 visited the house of the complainant at Keerthinagar and threatened them with dire consequences.

4. Basing on the complaint referred to the police, the Sub-Inspector of Police of Geesugonda Police Station registered a case vide Crime No. 151 of 2007 under Sections 420, 468, 504 and 506 IPC and issued FIR. During the course of investigation, sample signatures and thumb impressions of the de-facto complainant as well as the accused Nos. 3 and 6 were collected from the Court and were sent to the finger print expert. The investigating officer also collected the documents from the Sub-Registrar Office, Narsampet and sent those documents also to the Director of Finger Prints Bureau, CID, AP through the Court for comparison. The finger print expert as well as the hand-writing expert gave reports stating that the thumb marks on Exs. P5 and P6, the registered sale deeds executed in favour of A1 and A2, were tallying with the thumb marks of accused No.3, but not with the thumb marks of the complainant. The hand-writing expert also gave opinion that the signatures on Exs.P5 and P6, the sale deeds executed in favour of A1 and A2, did not belong to the complainant. The investigating officer basing on the said report, filed charge-sheet against the accused Nos. A1 to A6 for the offences under Sections 420, 468, 471 and 506 IPC.

5. The case was tried by the III Additional Judicial Magistrate of First Class, Warangal. During the course of trial, the prosecution examined P.Ws. 1 to 10 and got marked Ex. P1 to P8. Ex.D1 to D4 were marked on behalf of the defense.

6. On considering the oral and documentary evidence on record, the Trial Court observed that the prosecution could successfully establish that accused No.3 impersonated as the complainant (PW1) and attested her thumb mark as that of PW1 before the Sub-Registrar to help accused Nos. 1 and 2 and accused Nos. 4 and 5 falsely identified the accused No.3 as P.W1 in front of Sub-Registrar and thereby A1 to A5 committed the offences punishable under Sections 420 and 468 IPC. As the accused Nos. 1 and 2 falsely claimed that the thumb marks on Ex. P5 and P6 belonged to PW1 and pressed into service the fabricated documents to show them as genuine documents, they were further liable for the offence under Section 471 IPC. The Trial Court however found A6 not guilty for the offences under Sections 420, 468 and 471 IPC. The Trial Court also observed that A1 and A2 not committed the offence under Section 506 IPC. The Trial Court further observed that the offences of forgery, fabrication and cheating took place at Narsampet and the said facts were different from the facts constituting the offence under Section 506 IPC, which was alleged to have taken place at the residence of the complainant at Keerthinagar, Warangal and there was no link between the offence under Sections 420, 468 and 471 IPC with the offence under Section 506 IPC, no jurisdiction vested with the Court and when the prosecution failed to prove that A1 and A2 committed the offence under Section 506 IPC, Section 178 Cr.P.C.

would not attract and acquitted all the accused persons on the point of lack of jurisdiction.

7. Aggrieved by the said acquittal, the State preferred an appeal. The appeal was heard by the I Additional Sessions Judge, Warangal vide Criminal Appeal No. 26 of 2015 and the lower appellate court observed that the trial court failed to consider the provisions of Sections 461 and 462 Cr.P.C. and remanded the matter to the trial court to proceed as per Sections 461 and 462 Cr.P.C. by giving an opportunity to both the parties.

8. Aggrieved by the said judgment of reversing the acquittal and remanding the matter to the Trial Court, the accused persons A1 to A6 filed this revision contending that the order of the appellate court was illegal and against the principles of law. The Trial Court basing on the oral and documentary evidence, after appreciation in a reasonable manner, came to a conclusion that the entire offences alleged in the final report had not taken place within its jurisdiction but within the jurisdiction of Narsampet Court. The lower appellate court ought not to have set aside the judgment of the trial court since the finding of the trial court was based on sound principles of law. The lower appellate court gave much importance to the dismissal of application filed for discharge of accused by the trial court but had failed to note that the dismissal order was at the initial stage but the order of acquittal was after consideration of

the entire evidence on record. Therefore, the earlier finding of the trial court could not be basis for setting aside the subsequent judgment delivered after full-fledged trial. The orders passed by the lower appellate court in remitting the matter to the trial court was unknown to the criminal jurisprudence and it would cause much prejudice to the petitioners who were acquitted after a prolonged trial and prayed to set aside the judgment of the lower appellate court as the same was passed with non-application of mind.

9. There was no representation for the petitioners/respondents/accused even though the matter underwent several adjournments since the year 2016.

10. Heard the learned Assistant Public Prosecutor representing the State and this Court proceeded to decide the matter on merits.

11. On a perusal of the judgment of the trial court, it would also disclose that the petitioners / A1 to A6 filed a petition under Section 227 of Cr.P.C. for discharge on the ground of lack of jurisdiction at the time of framing of charges but the said petition vide Criminal M.P. No. 406 of 2010 was dismissed by the then presiding officer by applying Section 178 Cr.P.C. Aggrieved by the said dismissal of the discharge petition, the petitioners preferred a revision and the said revision was also dismissed by the Sessions Court confirming the orders of the trial court in Crl. M.P. No. 406 of 2010.

12. The contention of the learned counsel for the petitioners / A1 to A6 before the lower appellate court was that the alleged creation of photograph of complainant and her voter identity card and fabrication of all other documents were alleged to have taken place in Narsampet area, therefore, all the offences took place within the territorial jurisdiction of Judicial Magistrate of First Class, Narsampet on 14.08.2007. Only the offence under Section 506 IPC was alleged to have taken place at Keerthinagar in Warangal on 19.10.2007. There was no relationship between the offences lodged against the accused under Section 420, 468 and 471 IPC to the offence punishable under Section 506 IPC and it could not be said that the offence under Section 506 IPC was either continuous or in continuation of the earlier offence.

13. The Trial Court by taking recourse of Section 178 Cr.P.C. which comes under Chapter-XIII - Jurisdiction of the Criminal Courts in inquiries and trials, pertaining to place of enquiry or trial, wherein it reads that:

“178: Place of inquiry or trial:

- a)
- b)
- c) *where an offence is a continuing one, and continues to be committed in more local areas than one; or*
- d)

It may be inquired into or tried by a Court having jurisdiction over any of such local areas.”

14. As seen from the order of the trial court in C.C.No.291 of 2019 dated 30.07.2014, it was also specified that the then presiding officer relied upon two decisions of High Courts. But the Trial Court observed that it was not concurring with the opinion of the then Presiding Officer. When the order of the trial Court in Criminal M.P.No.406 of 2010 was carried in revision and the same was also confirmed by the Sessions Court and the said order attained finality, the trial court again stating that it was not concurring with the opinion of the Presiding Officer is illegal and irregular. When the trial court found the accused A1 to A5 guilty for the offences under Sections 420, 468 and 471 IPC, acquitting them for all the said offences on the ground of lack of jurisdiction is also improper. The lower appellate court by taking recourse of Section 461 and 462 Cr.P.C. set aside the judgment of the trial court in acquitting the accused. Section 461 Cr.P.C. pertains to irregularities which vitiate proceedings and Section 462 Cr.P.C. pertains to proceedings in wrong place. Section 462 Cr.P.C. reads as:

" No finding, sentence or order of the Criminal Court shall be set aside merely on the ground that the enquiry, trial or other proceedings in the course of which it as arrived at or passed, took place in a wrong sessions division, district or sub-division or other local area, unless it appears that such error has infact occasioned a failure of justice".

15. The lower appellate court also observed that no where during the trial the accused averred that they were prejudiced because of the trial conducted in a wrong court. Therefore, when the proceedings were not vitiated as

contemplated under Section 461 of Cr.P.C. and further as per Section 462 of Cr.P.C. no failure of justice had been occasioned to the accused, it opined that the trial court erred in holding that it has no jurisdiction and acquitting the accused was erroneous. This court does not find any illegality or impropriety in the order of the lower appellate court in the said regard.

16. In the result, the Criminal Revision Case is dismissed confirming the order of the lower appellate court in Criminal Appeal No. 26 of 2015 dated 08.12.2015 in setting aside the order of the trial court and acquitting the accused. The matter is remanded to the trial court to pass appropriate sentences on hearing them in the said regard. The revision petitioners - accused are directed to surrender before the trial court within 15 days from the date of this order. If they fail to do so, the trial court shall take appropriate steps in securing their presence.

17. Miscellaneous Petitions pending, if any, shall stand closed.

October 26, 2022
NSK

Dr. G. RADHA RANI, J