

Bail Slip;- The Petitioner and accused was directed to be released on bail by Court Order of the High Court Dated 11.07.2011 made in CRL.R.C.M.P.No. 1856 of 2011 in CRL.R.C.No.1297 of 2011.

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**TUESDAY ,THE NINETEENTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL

CRIMINAL REVISION CASE NO: 1297 OF 2011

Criminal Revision Case Under Sections 397 & 401 of Cr.P.C against the Judgment made in Crl.A.No.40 of 2010 dated 02.06.2011 on the file of the Court of the I Additional District Judge (Sessions Judge), at Nizamabad, preferred against the judgment dated 13.4.2011 in CC No.1347/2002 on the file of I Addl. Judicial Magistrate of First Class, Nizamabad.

Between:

Smt.Deshetty Narsubai W/o.Abbaiiah Agri. R/o.Kaloor Village, Mandal and Dist. Nizamabad.

...PETITIONER/ACCUSED NO.3

AND

The State of A.P., Rep. by Public Prosecutor, High Court of A.P., Hyderabad

...RESPONDENT/COMPLAINANT

Counsel for the Petitioner: SRI. MOHAMMED ABDUL SALEEM

Counsel for the Respondent: ASSISTANT PUBLIC PROSECUTOR

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE E.V.VENUGOPAL
CRIMINAL REVISION CASE NO.1297 OF 2011

ORDER :

This Criminal Revision Case is filed by the petitioner/accused No.3 under Sections 397 and 401 of Criminal Procedure Code (for short 'Cr.P.C.') aggrieved by the judgment dated 02.06.2011 in Criminal Appeal No.40 of 2010 on the file of the learned I Additional District Judge, Nizamabad wherein the conviction and sentence imposed against the petitioner along with accused No.4 by the learned I Additional Judicial Magistrate of First Class at Nizamabad vide judgment dated 13.04.2010 in CC No.1347 of 2002 to undergo simple imprisonment for a period of two years each and to pay a fine of Rs.100/- each for the offences punishable under Sections 471 and 420 of IPC and in default of payment of fine amount, to undergo simple imprisonment for a period of one month each directing the sentenced to run concurrently was modified reducing the simple imprisonment period to three months from two years while upholding the fine amount and default sentence directing the sentences to run concurrently and setting off the post-trial detention, if any, under Section 428 of Cr.P.C.

2. Heard Sri Mohammed Abdul Saleem, learned counsel for the petitioner and Sri Vizarith Ali, learned Assistant Public Prosecutor

representing learned Public Prosecutor for the State/respondent.
Perused the record.

3. CC No.1347 of 2002, on the file of the learned I Additional Judicial Magistrate of First Class, Nizamabad was registered alleging that the petitioner and another accused i.e. A4 by producing fake and forged solvency certificates i.e. Exs.P7 and P8 before the learned Special Judicial Magistrate of First Class, Prohibition and Excise, Nizamabad stood sureties to one Shaik Ansari, accused in COR No.340 of 2001-02 while release of said Shaik Ansari on bail and upon verification PWs.2 and 4, who were then Secretary and Sarpanch of Grampanchayat, Kaloor reported under Ex.P2 that the petitioner and accused No.4 are not the owners of House No.2-69 and 4-117 and that they did not issue Exs.P7 and P8. Accordingly, PW1, learned Magistrate has lodged Ex.P1 complaint with police vide FIR No.87 of 2001 under Ex.P5 for the offences punishable under Sections 467, 471 and 420 IPC. During course of investigation, accused No.1 confessed his misdeeds along with accused Nos.2 to 6 and MOs.1 to 3 rubber stamps and letter pads were also recovered from them in the presence of PWs.5 and 6 under Ex.P6 panchanama. Since accused No.5 died, the learned judge of the trial Court, upon consideration of evidence available on record, while acquitting accused Nos.1, 2 and 6, found the petitioner and accused No.4 guilty for the offences referred supra, convicted and sentenced

them as stated supra. The learned appellate Court modified the said findings, as stated supra, holding that the petitioner and accused No.4 did not forge Exs.P7 and P8 and that they were forged by some other person and they being illiterate, without knowing the consequences of submitting such documents, have stood sureties and that they had no previous history of such acts, reduced the sentence of imprisonment as stated supra.

4. Aggrieved by the findings of both the Courts below, the petitioner/accused No.3 preferred the present criminal revision case mainly contending that both the Courts below failed to appreciate the evidence in a right perspective and erroneously found them guilty, as they were not the creators of Exs.P7 and P8 and also failed to consider the evidence of Pws.5 and 6, panch witnesses, who did not support the prosecution case and also failed to consider the admission of PW8 that PWs.1 to 4 did not mention the names of accused either in complaint or in their 161 Cr.P.C. Statements. Stating thus, he requested to allow this criminal revision case by setting aside the findings of both the Courts below. On the other hand, learned Assistant Public Prosecutor vehemently opposed the present criminal revision case contending that findings of both the Courts below are well reasoned findings and that learned District Judge of the appellate Court had already reduced the

period of imprisonment and hence, there is no necessity for interference of this Court.

5. Upon perusal of evidence on record along with judgments of both the Courts below, it is clear that the prosecution by examining PWs.1 to 4 coupled with the expert, who was examined as PW10 and gave Ex.P10 opinion and PW9, advocate, who produced Exs.P7 and P8, could able to prove that forged and fabricated documents i.e. Exs.P7 and P8 were created by accused No.1 with the help of accused Nos.2 and 5 in the name of the petitioner and accused No.4 by forged the signatures of PW3 and also created duplicate stamps, letter pads and seals of Gram Panchayat, Kaloor for the purpose of releasing Shaik Ansari on bail. It is not the case of the prosecution or the fact elicited through the evidence of prosecution that the petitioner and accused No.4 created Exs.P7 and P8 and hence, Section 468 of IPC cannot be attributed against them. On the other hand, since they cheated and induced the Court to accept forged documents for getting bail to one of the accused and hence, their misdeeds in this regard clearly attract the offences punishable under Sections 420 and 471 of IPC.

6. Further, there is force in the finding of the learned judge of trial Court that in view of submission of fake sureties, several criminal cases are being pending for want of execution of warrants against the

accused and also overburdening the concerned authorities for knowing the whereabouts of absconded accused.

7. However, as seen from the record, the petitioner and accused No.4, being illiterates, have agreed to act as sureties based on forged documents i.e. Exs.P7 and P8 on payment of small amount of Rs.600/- without knowing the consequences of submitting such documents. Further, they had no criminal history of doing such misdeeds. Considering the above factual matrix into consideration, both the Courts have found the petitioner and accused No.4 guilty, convicted and sentenced them, as stated supra. However, the learned District Judge of the appellate Court decreased the period of imprisonment. In that view of the matter, the findings of both the Courts below cannot be termed as made on assumptions and presumptions. Further, the grounds urged on behalf of learned counsel for the petitioner do not have force seeking interference of this Court as they are general in nature. Hence, so far as finding the petitioner/accused No.3 guilty for the offences with which he was charge-sheeted is concerned, both the Courts are on right side and cannot be found fault with.

8. So far as the quantum of sentence of imprisonment awarded to the petitioner is concerned, from the year 2002 the

petitioner is roaming around the Courts by facing mental agony and trauma to defend himself from the case and hence, this itself is a sufficient ground to take a lenient view in his favour. Accordingly, this Court is inclined to reduce the sentence of simple imprisonment awarded to the petitioner by the learned District Judge of the appellate Court in Criminal Appeal No.40 of 2010 under all counts to that of the period which he has already undergone.

9. Except the above modification, this Criminal Revision Case in all other aspects is dismissed. The bail bonds of the petitioner shall stand cancelled. The miscellaneous applications, if any pending, shall also stand dismissed.

**SD/- K. SHYLESHI
DEPUTY REGISTRAR**

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SECTION OFFICER

To,

1. The I Additional District Judge, at Nizamabad (with records, if any)
2. The I Additional Judicial Magistrate of First Class at Nizamabad
3. The Superintendent, Cherlapally Central Prison, Hyderabad
4. One CC to Mohammed Abdul Saleem, Advocate (OPUC)
5. Two CCs to Public Prosecutor, High Court for the State of Telangana at Hyderabad.(OUT)
6. Two CD Copies

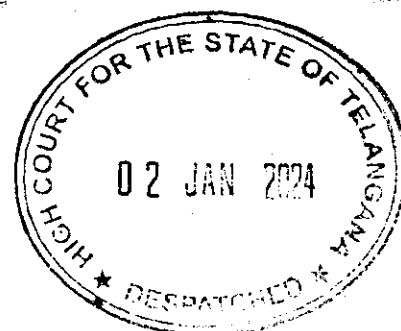
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HIGH COURT

DATED:19/09/2023

ORDER

CRL.R.C.No.1297 of 2011



DISMISSING THE CRL.R.C

⑨ VWJ
20/12/23