

THE HONOURABLE DR.JUSTICE G. RADHA RANI**CRIMINAL REVISION CASE No.383 of 2016****ORDER:**

This Criminal Revision Case is filed by the petitioner / Accused No.1 aggrieved by the judgment dated 27.01.2016 in Criminal Appeal No.223 of 2010 on the file of the First Additional District and Sessions Judge, Warangal confirming the conviction vide judgment dated 19.10.2010 in C.C.No.330 of 2005 on the file of the Court of Special Judicial First Class Magistrate for PCR Cases, Warangal.

2. The case of the prosecution as per the charge-sheet laid in C.C.No.330 of 2005 against the petitioner - A1 was that, the land to an extent of 0.37 guntas in Survey No.154 under the Shivar of Teegarajupally Village of Sangam Mandal pertaining to one Dadigala Veeraswamy was acquired by the Government under Kakatiya Canal and the officials deposited an amount of Rs.54,835/- as compensation to the said land acquired in O.S.No.88/90 on the file of the Principal Senior Civil Judge, Warangal.

3. Dadigala Veeraswamy was represented by Ch.Manohar Reddy and K.Venkat Reddy, Advocates on his behalf in O.P.No.88/90. He died on

31.01.2001. Taking advantage of the illiteracy of P.Subhadra, the only daughter of the deceased Dadigala Veeraswamy, the brother of the deceased Dadigala Veeraswamy, by name Dadigala Chinna Kommalu (A1) with a malafide intention to grab the money, hatched a plan and opened a bank account in SBH, KUC Branch, Hanumakonda, vide SB Account No.45581 by attesting signatures as Veeraswamy and posing himself as Veeraswamy. A1 filed a petition vide I.A.No.584 of 2001 before the Principal Senior Civil Judge, Warangal through Ch.Manohar Reddy, Advocate on 09.04.2001 for release of the cheque amount impersonating Veeraswamy. The Court ordered for release of the cheque amount. At that time, Subhadra came to know about the impersonation and she approached the Principal Senior Civil Judge Court, Warangal on 11.04.2001 and filed a petition, not to release the said amount.

4. Shri K.Venkat Reddy, Advocate filed a counter affidavit in favour of Subhadra in I.A.No.640 of 2001 seeking cancellation of the cheque release order. The Principal Senior Civil Judge, Warangal lodged a complaint before the concerned court IV Additional JFCM, Warangal with instructions to send the same to the concerned Police for investigation. On receipt of the complaint, the SI of Police, PS Subedari registered a case vide Crime No.314 of 2001 for the offences under Sections 181, 182, 193, 196, 205, 209, 419, 420, 468 and 471 of IPC.

5. During the course of investigation, the Investigating Officer collected the bank account opening forms and copies of the documents submitted by the accused to the bank officials and also the ration card, voter identity card pertaining to the deceased Veeraswamy from his daughter, Subhadra and sent the said documents to Director, FSL, Hyderabad for examination. The handwriting expert of FSL, Hyderabad issued report opining that the signatures of the deceased in O.P.No.88/90 and that of the accused signed as Veeraswamy in bank account opening forms and in I.A.No.584 of 2001 were not tallying. The MRO, Sangam also issued a report with regard to the records pertaining to the accused and the deceased. The Investigating Officer filed charge-sheet before the IV Additional JFCM, Warangal. The same was numbered as CC.No.88 of 2003. Subsequently, the said case was transferred to the court of Special Judicial First Class Magistrate for PCR Cases, Warangal as per the orders of the Principal District and Sessions Judge and renumbered as C.C.No.330 of 2005.

6. During the course of trial, the prosecution got examined P.Ws 1 to 8 and marked Exs.P1 to P25. D.Ws 1 and 2 were examined on behalf of the defence and Exs.D.1 to D.6 were marked on their behalf.

7. After considering the oral and documentary evidence on record, the trial court found A1 guilty for the offences punishable under Sections 181, 182, 193,

196, 205, 209, 419, 420, 468 and 471 of IPC and sentenced A1 to simple imprisonment for six (06) months and a fine of Rs.100/-, in default, to suffer simple imprisonment for seven (07) days for the offence under Sections 181 and 209 of IPC each and sentenced to suffer simple imprisonment for two (02) months for the offence punishable under Section 182 of IPC and simple imprisonment for six (06) months for the offence under Section 205 of IPC and simple imprisonment for one year for the offence punishable under Section 419 of IPC and rigorous imprisonment for two (02) years and a fine of Rs.100/- in default, to suffer simple imprisonment for seven (07) days for the offence punishable under Section 420 of IPC and simple imprisonment for one year and a fine of Rs.100/-, in default to suffer simple imprisonment for seven (07) days for the offences punishable under Sections 193, 196, 468 and 471 of IPC each and directed all the sentences to run concurrently.

8. Aggrieved by the said conviction and sentences recorded against A1 by the trial court, on 19.10.2010, A1 preferred an appeal. The appeal was heard by the I Additional Sessions Judge, Warangal and on hearing the counsel for the appellant as well as the Additional Public Prosecutor, dismissed the appeal confirming the conviction recorded against A1, but modified the sentence, reducing it to six months each for the offences under Sections 419, 420, 468 and 471 of IPC by

maintaining the fine amount. The lower appellate court also confirmed the sentence imposed against A1 for the offences punishable under Sections 181 and 205 of IPC.

9. Aggrieved by the said judgment of the I Additional District and Sessions Judge, Warangal in confirming the conviction against him, the petitioner - A1 preferred this revision contending that the courts below erred in holding that the petitioner impersonated a dead person by name Veeraswamy and opened an account in the bank and filed a cheque petition on his behalf for issue of cheques in his favour. The courts below ought to have seen that the deceased Veeraswamy filed O.P.No.88 of 1990 and an award was passed in his favour and the cheque was also issued in his favour. The courts below ought to have seen that the petitioner did not take the cheque nor misappropriated the cheque. The courts below erred in appreciating the evidence of D.Ws.1 and 2 and the exhibits marked on behalf of the defence and erroneously convicted the petitioner. The courts below ought to have seen that the case was instituted against the petitioner due to rivalry between the two advocates K. Venkat Reddy and Ch.Manohar Reddy and prayed to allow the revision.

10. Heard the learned counsel for the revision petitioner and the learned Additional Public Prosecutor.

11. As seen from the record, PW.1 is the Senior Civil Judge, Warangal who lodged the complaint. He stated that the accused filed cheque petition I.A.No.584 of 2001 in O.P.No.88/90 impersonating the original petitioner Sri D.Veeraswamy and the daughter of the original petitioner (PW.2) brought to the notice of the court after ordering the cheque petition in favour of the accused. As such, he ordered for the presence of the accused with identity proof, but the accused did not turn up. The counsel for the accused who filed the petition on behalf of the accused filed a memo stating that the accused was not the person in whose favour the award was passed. Thereby, he ordered to cancel the said cheque and lodged the complaint.

12. The daughter of D.Veeraswamy, the original complainant was examined as PW.2. She stated that her father filed O.P.No.88/90 and he died on 31.01.2001 and on coming to know about the cheque petition filed in the name of her father impersonating him, she brought the same to the notice of the court.

13. The counsel by name Sri. K.Venkat Reddy, who filed vakalath for D.Veeraswamy in O.P.No.88/90, was examined as PW.4. He stated that the original petitioner D.Veeraswamy died on 31.01.2001 and on coming to know about his death through PW.2 and that another person filed cheque petition impersonating D.Veeraswamy, he filed I.A.No.640 of 2001 on behalf of PW.2 for cancellation of the order passed for issuance of the cheque.

14. The Death Certificate of the original petitioner, D.Veeraswamy was marked as Ex.P.8. The expert who examined the signatures of the original petitioner, D.Veeraswamy in O.P.No.88/90 and the signatures of A1, who opened the bank account and filed the cheque petition in the name of the original petitioner was examined as PW.7 and he stated that the signatures in O.P.No.88/90 and the signatures in I.A.No.585 of 2001 were not put by the same person.

15. Considering that the evidence of the expert was corroborating with the evidence of P.Ws.1, 2 and 4 and also considering the Exs.P21 and P22, Voter ID Cards of the original petitioner, D.Veeraswamy and that of A1 and the Voter ID of A1 was showing his name as Chinna Kommalu at Sl.No.151 and the identify card, Ex.P22 was containing the photo of D.Veeraswamy and the photograph on Ex.P22 was not that of the accused and no material was placed by the accused to prove his name as D.Veeraswamy but not Chinna Kommalu, except the oral evidence of D.Ws.1 and 2, the trial court, as well as the lower appellate court convicted A1 for the offences of impersonation and forgery.

16. The contention of A1 was that Dadigala Veeraswamy was not the sole owner and pattadar of land in Sy.No.154. Fifteen (15) villagers together including late Dadigala Veeraswamy purchased an extent of 150 acres in Sy.No.154 for the purpose of grazing their cattle and sheep. He was also one of the co-sharers in the

said property. All the co-owners were entitled for a share in the compensation amount including late Dadigala Veeraswamy and the appellant, but the said compensation amount was awarded in the name of Dadigala Veeraswamy. Dadigala Veeraswamy alone was not entitled for the total compensation amount.

17. The trial court as well as the lower appellate court observing that it was not the case of the prosecution that Dadigala Veeraswamy alone was entitled for the total compensation amount, and the internal agreement with regard to distribution of the compensation amount among the co-sharers was not the issue, but the appellant had filed a cheque petition in the name of D.Veeraswamy and claimed the amount, the evidence of the witnesses proved that the petitioner - A1 filed a false affidavit before the court to claim the amount, rightly convicted the A1 for the offences under Sections 468, 419, 420, 181 and 205 of IPC.

18. This Court does not find any illegality or impropriety or irregularity in the observations of the courts below in convicting the revision petitioner - A1 for the said offences.

19. The contention of the learned counsel for the revision petitioner that A1 had not misappropriated the cheque amount is not an issue to be considered as the offence charged against the accused was not for misappropriation but for forgery and cheating by impersonation. As the judgments of the courts below are based

upon the evidence on record in convicting the revision petitioner - A1 for the said offences and the sentence was also modified by the lower appellate court by taking a lenient view, by taking note of the age of the revision petitioner, being a senior citizen, this Court does not find any necessity to interfere with the sentence aspect also.

20. In the result, the Criminal Revision Case is dismissed confirming the judgment of the I Additional Sessions Judge, Warangal in Criminal Appeal No. 223 of 2010 dated 27.01.2016. The bail bonds of the accused shall stand cancelled and the accused is directed to surrender before the court below within fifteen (15) days from the date of receipt of copy of this order and in case if he fails to do so, the trial court shall take necessary steps to take him into custody.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. G.RADHA RANI, J

3rd January, 2023
nsk.