

BAIL SLIP : The Petitioner / Accused was directed to be released on bail by the Order of the High Court dated 22-08-2010 made in CrI.R.C.M.P.No. 3236 of 2016 in CrI.R.C.No.2154 of 2016

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

TUESDAY, THE TWENTY SIXTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL

CRIMINAL REVISION CASE NO: 2154 OF 2016

Criminal Revision Case filed under Section 397 & 401 of Cr.P.C. against the Judgment dated 19-08-2016 made in CrI.A.No. 328 of 2016 on the file of the Court of the Metropolitan Sessions Judge, Hyderabad, preferred against the Judgment passed in C.C.No.59 of 2012 dated 28-03-2016 on the file of the Court of the XVII Additional Chief Metropolitan Magistrate, Nampally Criminal Courts, Hyderabad.

Between:

Madaparthi Chandrasekhar, S/o. Late Basavaraju, Aged about 38 years,
Occ. Business, R/o. H.No. 8-3-228/1280/84, Jawaharnagar, Yousufguda,
Hyderabad

...Petitioner / Accused

AND

The State of Telangana, Reptd by the Public Prosecutor, High Court,
Hyderabad

...Respondent / Complainant

Counsel for the Petitioner : Sri M Parma Reddy

**Counsel for the Respondent : Sri E Ganesh
Assistant Public Prosecutor**

The Court made the following Order :

1

THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL

CRIMINAL REVISION CASE No.2154 OF 2016

ORDER:

This Criminal Revision Case is filed by the petitioner seeking to set aside the judgment dated 19.08.2016 in Criminal Appeal No.328 of 2016 on the file of the learned Metropolitan Sessions Judge, Hyderabad (for short, "the appellate Court") modifying the judgment dated 28.03.2016 in C.C.No.59 of 2012 on the file of the learned XVII Additional Chief Metropolitan Magistrate, Nampally Criminal Courts, Hyderabad (for short, "the trial Court").

2. Heard Mr.Parama Reddy, learned counsel for the petitioner and Mr.E.Ganesh, learned Assistant Public Prosecutor appearing for respondent-State.

3. The brief facts of the case are that the affairs of the Shirdi Sai Temple situated at Plot No.1, Jawahar Nagar, near Krishnakanth Park, Yousufguda, Jubilee Hills, Hyderabad are governed by its Trust called "Sri Shirdi Sai Dwarakamai Trust" which consists of five trustees namely Bangaru Laxman (Chairman), I. Venkateswar Rao (Treasurer), PW1 C. Balaprakash (Secretary), PW2-Malla Reddy (Vice-President) and M.Chandra

Sekhar (Vice President), who is the petitioner/accused. It is stated that the said Temple is maintaining its account with Dhanalaxmi Bank, Banjara Hills and the temple Hundi collections were deposited into the said Bank periodically. It is further stated that on 05.06.2010 the trust members of the Temple opened the Hundi, counted the offerings in the Hundi and found it to be at Rs.3,30,167/-. The temple Trust members have entrusted the work of such Hundi collection to the accused with an instruction to deposit the same in the Temple account of the Dhanalaxmi Bank, Banjara Hills, Hyderabad. It is stated that the accused instead of depositing the money in the Bank, misappropriated the same for himself. Basing on the said facts, the police registered the case as Crime No.272 of 2010 for the offences under Sections 406 and 420 of I.P.C. and conducted investigation.

4. During the course of investigation, the police recorded the statements of witnesses, arrested the accused on 03.07.2010 and recovered Rs.2,16,025/- from his possession in the Police Station and sent him to judicial remand. Thus, the accused had misappropriated Rs.1,14,142/- and committed the offences under Sections 420 and 406 of I.P.C. The trial Court had taken

cognizance of the offences under Section 420 of I.P.C. and framed the charge under Section 406 of I.P.C. Upon careful scrutiny of the material available on record, the trial Court vide judgment dated 28.03.2016 in C.C.No.59 of 2012 found the petitioner/accused guilty of the offence under Section 406 of I.P.C. and sentenced him to suffer simple imprisonment for a period of one year and to pay fine of Rs.5,000/-, in default, to suffer simple imprisonment of another two (2) months. Further, the trial Court directed the accused to pay an amount of Rs.1,14,000/- to the Temple in question, failing which, the amount was directed to be recovered from the accused, as per law.

5. Aggrieved by the same, the petitioner preferred Criminal Appeal No.328 of 2016. The appellate Court, on re-appreciating the material available on record, confirmed the judgment passed by the trial Court to the extent of conviction and sentence of imprisonment and payment of fine only and set aside the judgment of directing him to pay Rs.1,14,000/- to the temple in question. Assailing the same, the petitioner preferred the present Revision.

6. Learned counsel for the petitioner submitted that PWs.1 and 2 have actively participated in the affairs of the Temple and hatched a plan to implicate the petitioner in the false case. Therefore, he submits that the trial Court as well as the appellate Court, erroneously passed their respective judgments holding that the petitioner has committed the offence under Section 406 of I.P.C. and seeks to allow this Revision.

7. Learned Assistant Public Prosecutor contended that the appellate Court, by appreciating the evidence available on record in proper perspective rightly passed its judgment and interference of this Court is not warranted. Therefore, he seeks to dismiss the Revision.

8. On behalf of the prosecution, the trial Court examined PWs.1 to 3 and marked Exs.P1 to P12. On behalf of the defence, none were examined and no document was marked. Upon careful consideration of the material available on record, the trial Court observed that the evidence of PWs.1 and 2 proves that they have entrusted Rs.3,30,167/- of Hundi collection to the accused with an instruction to remit the same into the Bank and the accused retained the same and that part of Hundi money in MO1 was recovered from the accused under Ex P12. The remaining amount

of Rs.1,14,000/- was misappropriated by the accused. The accused did not claim MO1 to be his personal cash. The seizure of MO1 from the accused proved that the accused had wrongfully retained the Hundi collection amount of Temple and it amply proves the wrongful retention of Temple money by the accused. Therefore, the trial Court found the accused guilty for the offence under Section 406 of I.P.C. and rendered the judgment dated 28.03.2016 in C.C.No.59 of 2012.

9. In the appeal, the appellate Court, upon re-appreciating the evidence on record observed that the material available would amply prove the guilt of the accused. Hence, the appellate Court observed that the conviction and sentence awarded by the trial Court need not be interfered; however, observed that Section 357 of Cr.P.C. does not permit the Court to award compensation apart from fine. On considering the ruling of the Apex Court in **P.Suresh Kumar Vs. R.Shanker¹**, the appellate Court rendered the impugned judgment.

10. This Court vide order dated 22.08.2010 suspended the sentence of imprisonment alone imposed against the petitioner,

¹ **Criminal Appeal No.1335 of 2005**

pending Revision, and ordered him to be released on bail on executing a personal bond of Rs.15,000/- with two sureties each for a like sum to the satisfaction of learned XVII Additional Chief Metropolitan Magistrate, Hyderabad.

11. In the present case on hand, both the Courts held that the petitioner was guilty of the offence under Sections 406 of I.P.C., which finding, in my considered view, does not call for interference, in exercise of revisional jurisdiction under Section 397 Cr.P.C. Hence, I find no reason to interfere with the well considered judgment passed by the appellate Court.

12. Having regard to the submissions made by both the learned counsel and upon considering the fact that the petitioner underwent mental agony by roaming around the trial Court as well as the appellate Court and as eight long years have elapsed from the date of filing of this Revision, this Court deems it appropriate to reduce the sentence imposed against the petitioner to the period of imprisonment already undergone by him.

13. Except the above modification, in all other aspects, the Criminal Revision Case stands dismissed.

Miscellaneous Petitions, pending if any, shall stand closed.

Sd/- K. SAILESHI
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Metropolitan Sessions Judge, Hyderabad (with records, if any)
2. The XVII Additional Chief Metropolitan Magistrate, Nampally Criminal Courts, Hyderabad
3. The Station House Officer, Jubilee Hills PS, Hyderabad District
4. Two CCs to the Public Prosecutor, High Court for the State of Telangana, Hyderabad [OUT]
5. One CC to Sri M Parma Reddy, Advocate [OPUC]
6. Two CD Copies

VA/gh



HIGH COURT

DATED:26/11/2024

ORDER

CRLRC.No.2154 of 2016



DISMISSING THE CRLRC

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