APHC010068202007

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI

FRIDAY, THE 9th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 1192 OF 2007

Between:

1. Kolapalli Prabhakar Rao, S/o.Punnaiah, R/o.Krishna Lanka, Vijayawada, Krishna District.

...Petitioner

AND

1. State of Andhra Pradesh, rep. by Public Prosecutor, High Court of A.P., Hyderabad.

...Respondent

Counsel for the Petitioner: G JHANSI

Counsel for the Respondent T M K CHAITANYA

The Court made the following order:

ORDER:

Instant Criminal Revision Case has been preferred against order dated 29.08.2007 passed in Crl.A.No.136 of 2002 by learned VII Additional District and Sessions Judge (Fast Track Court), Guntur, whereby learned Appellate Court confirmed conviction and sentence imposed on the present petitioner/A2 for the offence punishable under Section 420 IPC passed by learned VII Additional Munsif Magistrate, Guntur, vide order dated 08.03.2002 in C.C.No.12 of 1992.

2. Brief facts of prosecution case are that the Inspector of Police, CID, Guntur, filed a charge sheet in Crime No.38 of 1987 against A1, the General Superintendent of the P.W. Workshop, Seethanagaram; A2, present petitioner; and A3, an officer of P.W. Workshop, Seethanagaram, alleging misappropriation of scrap in violation of G.O.Ms.No.967, dated 02.12.1978, issued by the Government, directing that scrap be sold only to A.P. Steel, Palvancha. Accordingly, between 01.04.1981 and 05.06.1983, the Workshop sold scrap to A.P. Steel, Palvancha. However, it was alleged that accused conspired to procure scrap from the Workshop and sell it to private parties instead of supplying it to A.P. Steel, Palvancha. During the tenure of A1 as General Superintendent, he allegedly failed to inform A.P. Steel, Palvancha, about the availability of scrap. On 30.01.1986, the police at Vijayawada found a lorry carrying iron scrap at Autonagar, Vijayawada, giving rise to suspicion that scrap meant for A.P. Steel, Palvancha, had been diverted and sold to

private parties. After thorough investigation, charge sheet was filed by Police. Charges under Sections 409, 477-A and 120-B IPC were framed against A1, while charges under Sections 420 and 120-B IPC were framed against A2 and A3.

3. During trial, learned Trial Court examined prosecution witnesses, P.Ws.1 to 43, and marked Exs.P1 to P98. Upon considering oral and documentary evidence, learned Trial Court found A1 guilty of offences punishable under Sections 477-A, 409 and 120-B IPC and found A2 guilty of offences punishable under Sections 420 and 120-B IPC. Accordingly, they were sentenced to imprisonment for certain period. A3 was found not guilty and was acquitted.

4. Learned Appellate Court acquitted A1 of offences punishable under Sections 120-B, 420, 409 and 477-A IPC by setting aside order passed by learned Trial Court. It also set aside conviction of A2 under Section 120-B IPC but confirmed his conviction and sentence under Section 420 IPC. Thus, although A2 was acquitted of charge under Section 120-B IPC, his conviction under Section 420 IPC was confirmed. Hence, the present Criminal Revision Case.

5. Smt. G Jhansi, learned counsel for petitioner submits that, although several documents were marked and placed before learned Trial Court during the trial, the evidence establishes that A.P. Steel, Palvancha, did not sustain

any loss. Moreover, P.W. Workshop, Seethanagaram, sold scrap and received sale consideration. Therefore, there was no loss arising out of the transaction. Thus, ingredients of Section 420 IPC have not been established. She further submits that evidence placed before learned Trial Court does not justify the finding that petitioner is guilty of offence under Section 420 IPC. She also submits that learned Additional Public Prosecutor has admitted that there was no financial loss to the Workshop, though the Government Order was violated. It is further contended that learned Trial Court and learned Appellate Court convicted the petitioner merely on basis of assumptions. There is no conclusive evidence against present petitioner/A2 and, therefore, A2 is entitled to acquittal.

6. On the other hand, Sri P. Somayaji, learned Additional Public Prosecutor, submits that investigating agency sufficiently proved offence by placing documentary evidence on record. It was established before learned Trial Court that A2, by representing himself as representative and agent of A.P. Steel, Palvancha, lifted stocks of scrap from P.W. Workshop but did not deliver the same to A.P. Steel, Palvancha. Instead, he sold the scrap in open market with an intention of cheating.

7. Heard both learned counsel and perused the record, including orders passed by learned Trial Court and learned Appellate Court.

8. It appears from the record that, between 01.04.1981 and 05.06.1983, scrap was sold by the P.W. Workshop, Seethanagaram, to A.P. Steel, Palvancha, pursuant to the Government Order issued vide G.O.Ms.No.967, dated 02.12.1978. Thereafter, the said scrap was not delivered to A.P. Steel, Palvancha, but was sold in the open market. However, during the investigation conducted by the CID, it was revealed that A2, purporting to be the representative of A.P. Steel, Palvancha, placed orders and submitted demand drafts (DDs) to the P.W. Workshop, Seethanagaram, and lifted a substantial quantity of scrap. The prosecution further revealed that A.P. Steel, Palvancha, had not placed any order for iron scrap with the P.W. Workshop, Seethanagaram. Upon completion of a thorough investigation, the police filed a charge sheet, and several documents were placed before the learned Trial Court. Neither A.P. Steel, Palvancha, nor P.W. Workshop, Seethanagaram, sustained any financial loss, as the scrap was sold at Government-prescribed rate. However, upon a thorough inquiry, it was revealed that A2 himself represented to P.W. Workshop that he was representative of A.P. Steel, Palvancha, and procured a substantial quantity of scrap at Government-prescribed rate. The said scrap was apparently sold in open market, thereby resulting in financial gain to A2. Although the act of A2 may not have caused any financial loss to Government, but he derived financial gain from the transaction. The Government Order was meant to look after the interests of

the Government. The said Government Order was violated by A2, who represented himself as a Government representative.

9. In paragraphs 20 to 23 of its judgment, the learned Appellate Court discussed law relating to cheating and the involvement of present petitioner/A2 in the said act. It appears that A2, by representing himself as representative of A.P. Steel, Palvancha, lifted the stock from P.W. Workshop, Seethanagaram, thereby committed an act of cheating. Although there was no loss to Government, A2 gained financially from the transaction. I find the order passed by the learned Trial Court to be justified. The learned Appellate Court categorically observed that A2 had committed the offence of cheating and rightly confirmed his conviction under Section 420 IPC.

10. It appears that learned Trial Court sentenced petitioner to undergo rigorous imprisonment for one year and to pay a fine of Rs.500/- for offence under Section 420 IPC. The said sentence was confirmed by the learned Appellate Court.

11. The instant crime was registered in the year 1987, and approximately 40 years have elapsed since the commission of the offence. Present petitioner/A2 is aged about 78 years. At this advanced age, it would be very difficult for the petitioner to undergo imprisonment of any description. Considering the above circumstances, conviction of petitioner under Section 420 IPC is confirmed. However, the substantive sentence of imprisonment is

modified and, in lieu thereof, petitioner is directed to pay a fine of Rs.20,000/-, in addition to the fine of Rs.500/- already imposed by learned Trial Court and confirmed by learned Appellate Court. Petitioner is directed to deposit the fine amount before the learned Trial Court within six weeks from the date of receipt of a copy of this order, failing which the substantive sentence of imprisonment imposed by the learned Trial Court shall be carried out.

12. Accordingly, the Criminal Revision Case is disposed of. There shall be no order as to costs. As a sequel, miscellaneous petitions, if any, pending in this Criminal Revision Case shall stand closed.

SUBHENDU SAMANTA, J

Date: 09.10.2026
JLSR

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THE HON'BLE SRI JUSTICE SUBHENDU SAMANTA

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