APHC010486552007

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3368]
(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI

CRIMINAL APPEAL No: 1717/2007

Between:

1. TADANKI JOHN PRIYANADAM, S/O BHUJANGA RAO, ASST. SOCIAL WELFARE OFFICER FORMERLY AT CHINTALAPUDI OF W.G.DIST.

...APELLANT

AND

1. THE STATE OF A P, through the Range Inspector, ACB, Eluru Range, W.G.Dist., rep. by the Spl. Public Prosecutor for ACB Cases, High Court of A.P., Hyderabad.

...RESPONDENT

Counsel for the Appellant(S):

SURESH KUMAR REDDY KALAVA

Counsel for the Respondent:

S.SYAM SUNDER RAO SC cum Spl.P.P. For ACB

The Court made the following:

THE HONOURABLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI

CRIMINAL APPEAL No: 1717 OF 2007

O R A L J U D G M E N T:

Heard Sri Suresh Kumar Reddy Kalava, learned counsel for the appellant and Sri S.Syam Sunder Rao, learned Special Public Prosecutor-cum-Standing Counsel representing the respondent/ACB.

2. The appeal is preferred by the convict/Accused in the case, challenging the judgment dated 07.12.2007 rendered by the Special Court for SPE & ACB Cases, Vijayawada, in C.C.No.8/1998. The appellant was convicted for the offence U/s.13(2) r/w. section 13 (1)(e) of the P.C.Act, 1988. The appellant was sentenced to suffer simple imprisonment for a period of two (02) years and to pay fine of Rs.2,000/- (Rupees Two Thousand only), in default, suffer simple imprisonment for a period of six (06) months.

3. For the sake of convenience, the parties hereinafter referred to as they were arraigned before the Special Court.

CASE OF THE PROSECUTION:

4. The case of the prosecution is that accused worked as Government Servant as Warden in Social Welfare Department from 16.07.1973 to 30.09.1995 i.e., during the check period. He acquired assets disproportionate to his known source of income. He did not account for disproportionate assets in his possession.

5. The total income of the accused during check period is Rs.12,77,203/-.The expenditure during the check period is Rs.6,30,798/-. The savings is Rs.6,46,405/-. The worth of assets possessed by the accused is Rs.15,76,858/-. Hence, the accused is in possession of assets worth of Rs.9,30,454/-. excess to his known sources of income, which he could not reasonably explain. The Government issued proceedings vide G.O.Ms.No.3 dated 16.01.1998 to prosecute the accused. The Investigation Officer after concluded the investigation, laid charge sheet before the Special Court for the offence U/s.13(1)(e) r/w.13(2) of the P.C.Act, 1988.

6. The Special Court charged the accused for the offence U/s.13(1)(e) r/w.13(2) of the P.C.Act, 1988. The accused denied the charge and claims to be tried.

EVIDENCE FOR THE PROSECUTION:

7. The prosecution to substantiate the charge, examined P.Ws-1 to 62 and got marked Exs.P-1 to P-206.

8. The accused was examined U/s.313 Cr.P.C. regarding the incriminating circumstances appearing against him from the evidence for the prosecution. He denied the same. No oral evidence was adduced for the accused. Exs.D-1 and D-2 were marked. Exs.X-1 and X-2 were also marked during the cross-examination of the prosecution witnesses.

FINDING OF THE SPECIAL COURT:

9. The Special Court considering the above evidence, found that the total income of the accused as follows:

Total income of the A.O.	Rs.12,55,203-06 paise
Total expenditure of the A.O.	Rs. 5,25,082-67 paise

Likely savings of the A.O.	Rs. 7,30,120-39 paise

The assets of the A.O.	Rs.14,53,737-15 paise
Likely savings of the A.O.	Rs. 7,40,120-39 paise

Even if 10% deduction is given, the disproportionate assets would be as follows:

	Rs. 7,13,616-76 paise
10% deduction	Rs. 71,361-67 paise

D.A. of the A.O.	Rs. 6,42,255-09 paise

Therefore, the Special Court found the accused guilty of the offence U/s.13(1)9e) r/w.13(2) of the P.C.Act, 1988. Accordingly, convicted and sentenced the accused as mentioned above. Hence, the appeal came to be preferred by the accused.

SUBMISSIONS ON BEHALF OF THE APPELLANT/ACCUSED:

10. The learned counsel for the appellant confined his argument to the following points:

1. The first contention is that there is an arithmetical error while calculating the income. The income was calculated as Rs.12,55,203-06 paise, instead of Rs.13,55,203-06 paise.

2. The second contention of the accused is that accused and his wife own Ac.14-71 cents of agricultural land. The contention of the accused is that he derived a sum of Rs.24,09,263/- as income from the agriculture land during the check period. But prosecution valued it as Rs.2,98,845/- only. The prosecution admits that accused owned Ac.7-31 cents of double crop wet land in West Godavari District, Andhra Pradesh State. The prosecution produced Ex.P-118 through P.W-30 regarding rates of paddy from 1982 to 1995 stating that paddy will be sold in February month relating to first crop and in September or October relating to second crop. The prosecution did not consider the rates mentioned in Ex.P-118, which are in vogue during the years mentioned in Ex.P-118. Therefore, the agricultural income determined by the prosecution at Rs.2,98,000/- is very low and contrary to the rates mentioned in Ex.P-118 filed by the prosecution. If the rates mentioned in Ex.P-118 are taken into consideration regarding the first crop

and second crop for Ac.7-31 cents only, for the period from 1982 to 1995, the income derived for the first crop is Rs.4,06,277/-, whereas, for the second crop is Rs.3,20,000/-. Hence, the accused is entitled to the said income to his credit.

3. The third contention is that the trial Court considered 10% of margin only, while calculating disproportionate assets instead of 20% margin as per orders of the Government in vogue at the relevant point in time.

4. The prosecution did not consider properly the expenditure incurred by the accused for construction of the house and increased the value without any basis.

The trial Court did not consider the above contentions in proper perspective. Hence, came to an erroneous opinion. If the above amounts are considered, the value of the assets possessed by the accused will be less than his likely savings arrived by the trial Court.

11. The learned Special Public Prosecutor-cum-Standing Counsel for ACB vehemently argued that there are no grounds to interfere with the judgment of the trial Court. However, he would submit that the trial Court committed an arithmetical error, while calculating the income of the accused, as contended by the accused. He would also submit that the calculation statement filed by the learned counsel for the appellant for determining the agriculture income is based on the rates mentioned in Ex.P-118. No dispute on the amounts arrived by the counsel for the

appellant with reference to Ac.7-31 cents relating to the accused. However, even if the said amounts are taken into consideration, the worth of assets in possession of the accused are more than his likely savings i.e., he is having disproportionate assets to his known sources of income. Therefore, there are no grounds to interfere with the judgment of the learned trial Court.

12. In the light of above rival contentions, the point that arose for consideration in this Criminal Appeal is as under:

> ***"Whether the judgment of the Special Court is not sustainable?"***

13. **POINT**: The learned counsel for the appellant contended that the Special Court committed an arithmetical error while calculating the income of the accused. The Special Court at page No.39 of the judgment mentioned 12 items under the head 'income'. The total value of the said items was arrived at Rs.12,55,203-06 paise. But the recalculation of the sum would be Rs.13,55,203-06 paise. Therefore, admittedly, the Special Court committed clerical error in that regard. Hence, the income of the accused during the check period shall be Rs.13,55,203-06 paise.

ANALYSIS:

14. The contention of the accused is that accused and his wife owned Ac.14-71 cents of double crop wet land in West Godavari District, Andhra Pradesh State. The accused to prove the said

contention, relied upon the evidence of P.W-25/Mandal Revenue Officer and Ex.D-1. It appears that, Ex.D-1 was issued by another Mandal Revenue Officer, certifying that accused and his wife together Ac.14-71 cents of land. P.W-25 admitted that it was issued by another Mandal Revenue Officer. However, the learned counsel for the appellant would argue that there is no dispute about the fact that accused owned Ac.7-31 cents of double crop wet land in West Godavari District, Andhra Pradesh State. The prosecution filed Ex.P-118 through P.W-30 regarding rates of paddy prevailing from 1982 to 1995.

15. The learned counsel for the appellant basing on Ex.P-118 placed a calculation sheet, determining the value of the paddy from 1982 to 1995 for Ac.7-31 cents. It was also verified by the learned Special Public Prosecutor-cum-Standing Counsel for ACB as mentioned above. There is no dispute with regard to the calculation statement filed by the learned counsel for the appellant.

16. Admittedly, as per the said calculation statement, the income derived for the first crop would be Rs.4,06,277/-. The income derived for the second crop would be Rs.3,20,000/-. So, the total income derived for Ac.7-31 cents on double crop wet land for the period from 1982 to 1995 is Rs.7,26,277/-. The value determined by the prosecution is Rs.2,98,845/-. Therefore, the balance income on agriculture land will be Rs.4,27,342/-. This amount shall be added to

the income of the accused. Therefore, the total income of the accused will come to Rs.13,55,203-06 paise (after correcting error) + Rs.4,27,432/- = Rs.17,82,635-06 paise.

17. The expenditure determined by the trial Court is Rs.5,25,082-67 paise. Therefore, likely savings will be Rs.12,57,553/-. The worth of the assets determined by the trial Court is Rs.14,53,737/-.

18. The learned counsel for the appellant contended that value of construction of the house as per P.W-18 was made as per SSR rates. P.W-18 admitted that, Ex.P-77 estimate does not disclose SSR rates. The SSR rates are not enclosed to Ex.P-77. P.W-18 admitted that the bills provided by the accused are enclosed to Ex.P-77. The estimated value of the timber as per Ex.P-77 is Rs.50,000/-. Whereas, as per bill it is Rs.10,000/- only. The value of the iron bill is Rs.39,000/- only. If these amounts and personal supervision are taken into consideration, the value of the construction of the building can be valued at Rs.3,50,000/-, as contended by the accused. P.W-18 without any basis, estimated the value of the house at Rs.5,80,000/-. Hence, a sum of Rs.2,30,000/- and odd more amount included in the value of assets possessed by the accused than actual value of the house.

19. P.W-18 in his evidence admitted that bills provided by the accused officer for purchasing various materials at the time of constructing the house relating to item No.5 of the assets were enclosed to Ex.P-77 estimate prepared by him. P.W-18 admitted that

as per bills, the estimated value of timber was only Rs.10,000/-. Iron value was only Rs.39,000/-. But their values were estimated as per SSR rates. He admits that, Ex.P-77 do not contain any information what the SSR rates at that time are. He also admitted that SSR rates are not enclosed to Ex.P-77 prepared by him. He admitted that the bills contain lesser value than the values mentioned in the estimate relating to timber, iron, cement etc., used for construction of the house. There is no evidence on record that the bills provided by the accused, enclosed to Ex.P-77 were fabricated documents. It is an admitted fact that accused constructed the house personally supervising the construction. In those circumstances, as rightly contended by the learned counsel for the accused, the value of the house shall be fixed at Rs.3,50,000/- only.

20. In the light of foregoing discussion, the details of the income, expenditure, likely savings and worth of assets will be as under:

Total income of the accused is	Rs.17,82,635-00
Total expenditure of accused is	Rs. 5,27,082-00

Likely savings of accused is	Rs.12,57,553-00
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21. In the above circumstances the value of the house be fixed at Rs.3,50,000/- instead of Rs.5,80,519/-. Hence, a sum of Rs.2,30,000/- be deducted from value of the assets i.e., Rs.14,53,737/- (determined

by the Special Court) – Rs.2,30,000 = Rs.12,23,737/-. Likely savings of the accused officer determined above is Rs.12,57,553/-. Thus, the excess value of the assets is Rs.12,23,737 - 12,57,553 = (less) - Rs.33,835/-. Hence, it is less than savings. Therefore, even without applying 20% margin as per Government orders issued by the Government of Andhra Pradesh, at the relevant point in time, as contended by the accused, the value of assets in possession of the accused is less than his likely savings. Hence, the finding of the Special Court that prosecution proved the offence U/s.13(1)(e) r/w.13(2) of the P.C. Act, 1988 is not sustainable.

CONCLUSION:

22. In the light of foregoing discussion, the appeal shall be allowed, setting aside the judgment of the Special Court.

RESULT:

23. In the result, the Criminal Appeal allowed. The judgment dated 08.12.2007 rendered by the Special Court for SPE & ACB Cases, Vijayawada, in C.C.8/1998 is set aside. Accordingly, the appellant/Accused is acquitted of the offence U/s.13(1)(e) r/w. section 13(2) of the P.C. Act, 1988. The bail bonds shall stand cancelled. The fine amount if any paid by the appellant/Accused shall be refunded to him in accordance with law. This judgment be certified to the trial Court, U/s.405 Cr.P.C.

As a sequel thereto, interlocutory applications, if any, pending shall stand closed.

JUSTICE B.V.L.N. CHAKRAVARTHI

28.04.2026

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THE HONOURABLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI

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Date: 28.04.2026

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