

In the Court of the X Addl. Sessions Judge: Gurazala,

Present:- Sri K. Sreenivasa Rao,
XIII Addl. Sessions Judge, Narasaraopet,
FAC: X Addl. Sessions Judge, Gurazala.

Wednesday, this the 20th day of November, 2019

Criminal Appeal No.72 of 2018

(S.C. No.411 of 2014 on the file of A S J., Gurazala)

From which Court the appeal is : Assistant Sessions Judge,
Gurazala

Number of the case in lower Court : S.C. No.411 of 2014

Number of the Appeal : Crl. Appeal No.72 of
2018

Between:

Shaik Bikari Saheb,S/o Galib Saheb,
Aged about 46 years(presently 50 yrs),
Muslim, Indira Nagar, Karempudi(V& M),
Guntur District.

...Appellant/A2

AND

The State S.H.O. Karempudi P.S.,
Rep. by its Public Prosecutor, Guntur

...Respondent

Result of Appeal: Dismissed & Confirmed.

Presenta tion	Filing	Notice issued by Court to appear	Bail bond if appellant has been let out on bail	Appellant ordered to Appear	Hearing	Order
17.2.18	21.2.1 8	22.2.18	----	27.3.18	13.11.1 9	20.11.19

This Criminal appeal is coming on 13.11.2019 before me for final hearing in the presence of Sri G. Koteswara Rao, Advocate for the Appellant/A2 and Learned Addl. Public Prosecutor for the State, upon hearing and considering the material on record, having stood over for consideration till this day, this Court, delivered the following:

J U D G M E N T

This Criminal Appeal is preferred against the calendar and judgment of the Assistant Sessions Judge's court, Gurazala in SC No.411 of 2014 dated 15.2.2018 convicting the appellants/accused No.1, 2, 4 to 7 are sentenced to undergo Rigorous Imprisonment for Five Years for the offence under section 489-A IPC and to pay a fine of Rs.1,000/- each, IDSI for six months each. A1, A2, A4 to A7 are also sentenced to undergo Rigorous Imprisonment for Five Years for the offence under section 489-B IPC and to pay a fine of Rs.1,000/- each, IDSI for Six Months each. A1, A2, A4 to A7 are further sentenced to undergo Rigorous Imprisonment for Five Years for the offence under section 489-C IPC and to pay a fine of Rs.1,000/- each, IDSI for Six Months each.

02. According to the prosecution, the accused used to manufacture the fake currency and circulate them for obtaining unlawful gain. A1 to A5 and A7 conspired together and made friendship in order to prepare fake currency through computer by scanning 500 rupee notes and 1000 rupee notes and print them through valuable paper. They purchased one computer, printer and valuable paper for Rs.22,000/- at Guntur, scanned 500 rupee original note and 1000 rupee note and printed them with the printer for Rs.3,00,000/- and shared them each. A1 was given 10- one thousand rupee fake currency notes as his share, A2 was given

40- five hundred fake currency notes and 5- one thousand rupee fake currency notes as his share, A3 was given 40- five hundred fake currency notes and 35- one thousand rupee fake currency notes as his share, A4 was given 40- five hundred fake currency notes and 35-one thousand rupee fake currency notes as his share, A5 was given 20- five hundred fake currency notes and 15- one thousand rupee fake currency notes as his share, A6 was given 40- five hundred fake currency notes and 55- one thousand rupee fake currency notes as his share and A7 was given 60- fake currency 500 rupee notes and 25- thousand rupee fake currency notes and remaining accused took 40- five hundred rupee notes and 35- thousand rupee notes each as their share.

03. A7 went to Hyderabad to learn print out of such type of notes along with A3 to A5. At that time they prepared fake currency again at Durgaiah house located at Uppal with the help of their friends. Kodada Police arrested A3 to A5 and A7 and some others while they were transporting fake currency and booked a case against them and seized computer, printer and other material which were used for manufacturing fake currency at Kodada and Vinukonda and sent them for remand in the month of September-2012. All of them were released on bail in that case. At the time of arrest the said arrested persons did not reveal the manufacturing of fake currency of Rs. 3,00,000/- at Vinukonda before Kodada Police. Due to that Kodada Police did not recover the said amount.

04. On 11.08.2013, A2 met A1 and informed about the supply of currency for Rs. 25,000/- as asked by A6 for exchanging of one true note for 3 fake notes. There by, A1 to A5 reached the house of A2 located at Indira Colony, Karempudi where A2 introduced A6 and while fake currency transaction is going on, meanwhile L.W-8-G.Subba Rao, S.I of police, Karempudi P.S went to the spot along with L.W.1-G.Srinivasa Rao, PC 2845, Karempudi PS, L.W.2-Ch.Suryanarayana, PC 3704, Karempudi PS, L.W.3-D.Vishnumurthy, PC 3989, Karempudi PS, L.W.4-V.Nagaraju, HG 1212 Karempudi PS and caught them. When examined about the material which was used for manufacturing of fake currency at Vinukonda, they confessed that Kodada Police seized the same after arresting of A3 to A5 and A7 at Kodada in the year September, 2012 and etc., facts which is a subject matter in Cr. No.174/2012 U/S 489(B)(C)(D) r/w 34 IPC and Sec. 25(1) Arms Act of Kodada Rural P.S. At that time, the accused did not confess the preparation of Fake Currency. After release of accused A3, A4, A5 and A7 they again conspired with each other to sell the fake currency which was prepared at first and in due course of their selling, they were caught red handed while selling fake currency to the accused A6. L.W-8-G.Subba Rao, S.I of police, Karempudi P.S also seized Fake Currency from the possession of A1 to A6 which as follows:

S.No	Serial	Fake Currency	Fake	Total Value
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.	Number of Accused	of Rs. 500/-	Currency of Rs. 1000/-	of Fake Currency
1.	A-1	- -	10	10,000-00
2.	A-2	40	5	25,000-00
3.	A-3	40	35	55,000-00
4.	A-4	40	35	55,000-00
5.	A-5	20	15	25,000-00
6.	A-6	40	55	75,000-00
	Total	180	155	2,45,000-00

L.W-8-G.Subba Rao, S.I of police, Karempudi P.S also seized original cash from the possession A2 which was given by A6 to be given to A1 with the denomination of 100 rupee notes hundred in number, 500 rupee notes ten in number and 1000 rupee notes ten in number all worth about Rs.25,000/- under a cover of mahazarnama and arrested all the accused after explaining the grounds of their arrest at 11.50 a.m and bail provisions u/s 50(i)(ii) Cr.P.C under a cover of mahazarnama. L.W-8-G.Subba Rao, S.I of police, Karempudi P.S sent the mediator report to L.W.7-Sk.Masthan Vali HC 1706, Karempudi PS to register a case. On 13.8.2013 at 12.30 p.m L.W.7-Sk.Masthan Vali HC 1706, Karempudi PS registered the mediator report as a case in Cr.No.88/2013 under Sec.489 (A) (B) (C) & (E) IPC.

05. The learned trial judge, after appearance of the appellant/accused, examined accused U/s.228(2) of Cr.P.C., and

framed charges for the offences punishable U/Sec.489(A), 489(B), 489(C) IPC., against A1, A2, A4 to A7 and as the accused denied to have committed the offences, the learned trial judge put them on trial for the said charges.

06. In the Court below, in its attempt to prove the complicity of the accused, the prosecution has examined as many as five witnesses as P.Ws.1 to P.W.5, marked Exs.P1 to P6 and M.Os.1 to 14.

07. After appreciating the oral and documentary evidence adduced by the prosecution, the learned trial judge having found the appellant/A2 was found guilty for the charge U/Sec.489(A), 489(B), 489(C) IPC., convicted for the same as mentioned above.

08. Heard the arguments. Written arguments are filed on behalf of the appellant/A2.

09. The point for determination is whether the prosecution established the guilt of the accused beyond all reasonable doubt.

10. **POINT:**

P.W.1 is the Head Constable who worked in Karempudi P.S. On 13.8.2013 at 9.00 a.m he along with L.W.2-Ch.Suryanarayana, PC 3704, Karempudi PS, L.W.3-D.Vishnumurthy, PC 3989, Karempudi PS, L.W.4-V.Nagaraju, HG 1212 Karempudi PS accompanied L.W.8-G.Subba Rao, S.I of police on credible information about fake currency notes circulation. They reached

Indira colony, Karempudi to the house of A2. They were caught hold by the police party. The S.I of police secured mediators L.W.5-Palisetty Venkateswarlu, L.W.6-Mekapothu Pitchi Reddy and apprehended them i.e., A1 to A6. Upon search, A1 produced fake currency notes about 10- thousand rupee fake currency notes with common serial number 3CT 056259 and they were seized from the possession of A1.

11. Thereafter A2 was enquired by S.I of police. On search, A2 produced fake currency notes about 5- thousand rupee fake currency notes and 40- five hundred rupee fake currency notes and genuine currency notes of the value of Rs.25,000/- of hundred rupee denomination, five hundred rupee currency notes about 10 and thousand rupee currency notes about 10. They were seized from the possession of A2. Thereafter A3 was enquired by the S.I of police who produced 35- thousand rupee fake currency notes and 40- five hundred rupee fake currency notes and they were seized. Thereafter A4 was enquired. A4 produced 35- thousand rupee fake currency notes and 40- five hundred rupee fake currency notes and they were seized. A5 produced on enquiry, 15- thousand rupee fake currency notes and 20- five hundred rupee fake currency notes and they were seized. On enquiry, A6 produced 55- thousand rupee fake currency notes and 40- five hundred rupee fake currency notes and they were seized. They contained the common Sl.No. JUD 461907 of five hundred rupee denomination.

To that effect a mediators report was prepared duly arresting A1 to A6 (Ex.P1). M.O.1 to M.O.12 are the fake currency notes.

12. It is seen from P.W.1 that they stayed there at 12.00 noon at the house of A2. Ex.P1 was scribed by P.W.2/PC No.3989 D.Vishnumurthy, Karempudi P.S. P.W.1 deniedf that Ex.P1 is created in the police station.

13. P.W.2 is the Constable. He corroborated the evidence of P.W.1 in all respects as narrated above. While scribing Ex.P1, P.W.2, both mediators and P.W.5/S.I of police were present.

14. P.W.3 is the V.R.O, Siripuram who earlier worked in Karempudi as VRO at the relevant point of time. On 13.8.2013 he was summoned to Karempudi P.S by the S.I of police along with L.W.6-Mekapothu Pitchi Reddy, VRO, Pedakodamagundla. Both of them followed the S.I of police and staff to the house of A2 in Indira colony, Karempudi. In their presence the S.I of police arrested A1 to A6. Upon causing the enquiry, A1 to A6 produced fake currency notes seized by S.I of police. As P.W.3 could not disclose the details of fake currency numbers, he was partly treated hostile. It is humanly impossible to give the currency note numbers by anybody including P.W.3, that too in such huge description. P.W.3 admitted that Ex.P1/mediator report was scribed in their presence at the house of A2 and the disclosure of facts made by A1 to A6 were incorporated in Ex.P1/ mediator report. P.W.3 admitted that

from the possession of A3, 40 numbers of fake currency notes of five hundred and 35 numbers of thousand rupee fake currency notes were seized. P.W.3 stated that from the possession of A4, 40 numbers of fake currency notes of five hundred and 35 numbers of thousand rupee fake currency notes were seized. From the possession of A5, 20 numbers of fake currency notes of five hundred and 15 numbers of thousand rupee fake currency notes were seized. P.W.3 also stated that from the possession of A6, 40 numbers of fake currency notes of five hundred and 55 numbers of thousand rupee fake currency notes were seized.

15. On 11.10.2013 on the second occasion P.W.3 acted as mediator for the arrest of the accused. P.W.3 found an offender who disclosed that he concealed fake currency notes. It is Ex.P2/mediator report dt.11.10.2013 at 11.00 a.m. He led to the offender. He led to Ipuru village and produced 10- one thousand rupee fake currency notes under a cover of mediator report dt.11.10.2013 at 2.00 p.m (Ex.P3). P.W.3 denied that A1 to A6 were never enquired by the S.I of police in their presence. It is the duty of P.W.3 being the VRO to assist the police.

16. Here, the learned Addl. P.P cited in **Badhavath Bagwan Naik @ Bhagwan @ Naik Vs State through SHO,P.S Gopalapuram, Secunderabad, Hyderabad, rep. by Public Prosecutor (2012 (1) ALT (CrI.) 189 (A.P)**, that though PWs.1 and 2 turned hostile to the prosecution with regard to identity of

the accused, they supported the prosecution case in all other aspects. It is well settled principle of law that while assessing evidence of hostile witnesses, the Court is not expected to discard their evidence totally on the ground that they turned hostile to the prosecution. It is for the Court to segregate that portion of evidence of the hostile witnesses and pick up those portions which are reliable and which are in accordance with the prosecution case. The Court is entitled to rely upon that portion of hostile witnesses evidence which is in support of the prosecution. Moreover, it is held by the Hon'ble Supreme Court in **Balaram Prasad Agarwal Vs. State of Bihar & Ors. 1997(1) ALT (Crl) 533 (SC)**, that it is now well settled that even the evidence of hostile witness also to the extent it corroborates the prosecution version can be relied upon.

17. P.W.4 is Head Constable, Karempudi P.S. He received Ex.P1 proceedings on 13.8.2013 and registered the same as a case in Cr.No.88/2013 under Sec.489 (A) (B) (C) & (E) of IPC vide Ex.P4/FIR. As per Ex.P4/FIR in column No.13 P.W.4 has to investigate the matter. However, the investigation was conducted by S.I of police.

18. P.W.5 is the S.I of police who corroborated the evidence of P.W.1 and P.W.2 regarding arrest of accused and seizure of fake currency notes from them under the cover of mediator reports. He could find independent witnesses at the house of A2. It is denied

by P.W.5 that M.O.1 to M.O.14 were planted for the purpose of this case.

19. It is contended that the complainant cannot be the Investigating Officer and vice versa.

20. In the present case, P.W.5 S.I of police did not give any police complaint. The case is based on Ex.P1/mediator report. As pointed out by the trial court also, Ex.P1 proceedings was registered by P.W.4/Head Constable as a case in Cr.No.88/2013. The Investigating Officer (P.W.5) is not direct complainant in this case inasmuch as the case based on Ex.P1/ mediator report proceedings. The trial court discussed about the citation in **Maddu Lakshmana Rao Vs State of A.P. 2000(2) ALD (Cri) 147 (A.P.)** and came to the right conclusion.

21. A3 to A5 and A7 are already involved in Cr.No.174/2012 U/S 489(B)(C)(D) r/w 34 IPC and Sec. 25(1) Arms Act of Kodada Rural P.S. P.W.3 stated that there are corrections in Ex.P1/mediator report. Ex.P1 had very minor corrections which do not affect the prosecution case. Thus, an appreciation of the evidence on record go to establish the prosecution case beyond all reasonable doubt. Therefore, the trial court's calendar and judgment cannot be interfered with. So also the sentence period.

22. In the result, Criminal Appeal is dismissed, confirming the trial court's calendar and judgment.

Dictated to the Stenographer, transcribed by her,
corrected and pronounced by me in open Court, this the 20th day of
November, 2019.

Sd/- K.Sreenivasa Rao,
XIII Addl. District & Sessions Judge,
Narasaraopet
FAC X Addl. District & Sessions Judge,
Gurazala.

Appendix of Evidence
Witnesses Examined
"No oral or documentary evidence is adduced on either side."

Sd/- K.S.Rao,
FAC X ADSJ., Gzl.,

Copy to:

The Assistant Sessions Judge, Gurazala.

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X AD & SJ, GZL.