

**CALENDER OF CASES TRIED BY THE COURT OF THE I ADDL
JUNIOR CIVIL JUDGE : SATTENAPALLI
CALENDER AND JUDGMENT
C.C.NO.825/2022**

Date of offence : 15.09.2022
Date of report/complaint : 15.09.2022
Date of apprehension of accused : --
Date of release on bail : --
Taking of cognizance : 25.11.2022
Furnishing of copies to the accused : 28.06.2023
Recording plea of the accused : 28.06.2023
Date of commencement of trial : 18.07.2023
Date of closure of trial : 11.10.2023
Examination U/s 313 Cr.P.C. : 07.11.2023
Date of Judgment : 05.12.2023
Explanation for delay : No Delay
Name of the complainant : State: rep by Sub-Inspector
of Police, Sattenapalli Rural P.S

Description of the Accused

1. Sayyad John Saida, S/o. Abdullah, 42 years,
R/o. Pakalapadu village, Sattenapalli Mandal,
Driver of TVS XL AP 07 DC 2437
2. Atthota Apparao, S/o. Narasimha Rao, 70 years,
R/o. Krosuru village and Mandal,
Driver of TVS XL AP 07 CC 4646
3. Nandigam Yohan, S/o. Ramaiah, years,
r/o. Pakalapadu village, Sattenapalli Mandal,
Driver of TVS XL AP 07 DC 2437
4. Parupalli Nagaraju @ Naga Babu, S/o. Dasu, 32 years,
R/o. Parupalli village, Krosuru Mandal.
5. Mandadapu Venkateswara Rao, S/o. Ramesh, 43 years,
Owner of Venkateswara Poultry farm,
R/o. Kattamuru village, Sattenapalli Mandal

Offence U/Secs. : 420 IPC & Sec.7(1) of EC Act

Finding : Found not guilty.

Result : In the result, A1 to A5 are found not guilty for offences punishable under Section 420 of Indian Penal Code and Section 7(1) of Essential Commodities Act and they are acquitted under Section 248(1) Criminal Procedure Code and set at liberty. The bail bonds of the accused as well as their sureties shall stand cancelled after six months. No property produced in this case. Hence no orders passed with regard to case property.

**I ADDL JUNIOR CIVIL JUDGE
Sattenapalli**

Copy Submitted to:

The Hon'ble Chief Judicial Magistrate, Guntur for favour of information

IN THE COURT OF THE I ADDL JUNIOR CIVIL JUDGE : SATTENAPALLI

Present : A. THOUSHEED HUSSAIN

I Addl Junior Civil Judge, Sattenapalli

Dated, this the 05th day of December, 2023

C C. No.825/2022

(Crime Number 147/2022 of Sattenapalli Rural Police station)

Between:

The State of Andhra Pradesh represented by the Sub-Inspector of Police, Sattenapalli Rural Police station. .. Complainant

And:

1. Sayyad John Saida, S/o. Abdullah, 42 years,
R/o. Pakalapadu village, Sattenapalli Mandal,
Driver of TVS XL AP 07 DC 2437
2. Atthota Apparao, S/o. Narasimha Rao, 70 years,
R/o. Krosuru village and Mandal,
Driver of TVS XL AP 07 CC 4646
3. Nandigam Yohan, S/o. Ramaiah, years,
r/o. Pakalapadu village, Sattenapalli Mandal,
Driver of TVS XL AP 07 DC 2437
4. Parupalli Nagaraju @ Naga Babu, S/o. Dasu, 32 years,
R/o. Parupalli village, Krosuru Mandal.
5. Mandadapu Venkateswara Rao, S/o. Ramesh, 43 years,
Owner of Venkateswara Poultry farm,
R/o. Kattamuru village, Sattenapalli Mandal ..Accused

This case is coming on 23.11.2023 before me for final hearing in the presence of Assistant Public Prosecutor, for the Complainant and of Sri K.N.V.Hari Babu, Advocate for accused and upon hearing and having stood over for consideration to this day, the court delivers the following:

:: J U D G M E N T ::

1) The Sub-Inspector of Police, Sattenapalli Rural Police station, laid charge sheet against accused in crime No.147/2022 for offences punishable under Sections 420 of IPC and Sec.7(1) of Essential Commodities Act with the following allegations:

2) On 15.09.2022 while the LW-1/Kolli Aruna/Deputy Tahasildar received credible information and then she along with mediators i.e, LWS7, 8 and other civil supplies officers i.e, LWS2 to 5 went nearby near to Venkateswara Poultry farm and there they noticed

a two wheeler entering into the said poultry farm with some plastic bags. On that they also went into the said poultry farm and there the A5 introduced himself as the owner of the said poultry farm. At the poultry farm the LWs1 to 5 found rice bags and also rice heap. When the LW1 questioned A5 about the said rice, the A5 showed A1 to A4 and stated that he will purchase PDS rice from A1 to A4 and inturn the A5 give eggs to A1 to A4. The A1 to A4 confessed that they will collect PDS rice at cheaper rates from nearby villages and sell the eggs supplied by A5 and gain money. Thereafter the LW1 verified the poultry farm premises and found totally 115 bags of PDS rice and the LW1 seized the said rice bags under the cover of mediator report. Later LW1 handed over seized rice bags to LW6/Incharge of MLS point. Thereafter the LW1 lodged report to police. Basing on the report and mediator report given by LW1, LW9/Head constable registered and investigated into a case in Cr.No.147/2022, U/Sec.420 of IPC and Sec.7(1) of Essential Commodities Act, 1956 and took up investigation and visited the scene of offence and prepared rough sketch. Later the LW10/SI of police served 41-A Cr.P.C notice to A1 and A2. After completion of investigation, LW.10/SI of police laid charge sheet against the accused for the offence punishable U/Secs.420 of IPC and Sec.7(1) of Essential Commodities Act, 1956.

3) The cognizance was taken against the accused for the offence under section 420 of IPC and U/s.7 (1) Essential Commodities Act. On appearance of the accused, all relevant case records were furnished to accused as required U/sec.207 of Cr.PC.

4) A1 to A5 were examined U/Sec. 239 Cr.P.C by explaining the substance of accusation levelled against them for the offence

Under sections 420 of IPC and Sec.7(1) of Essential Commodities Act and as per the charge sheet and the same was read over and explained to them in Telugu, for which they denied the same and pleaded not guilty and claimed to be tried according to law.

5) During the course of trial, the prosecution has examined PWs.1 to 6 and got marked Exs.P1 to P5. The prosecution gave up the evidence of remaining witnesses.

6) After closure of prosecution evidence, A1 to A5 are examined under Section 313 of Criminal Procedure Code by explaining the incriminating prosecution evidence in question form, in Telugu, for which they denied and reported that there is no defence evidence.

7) Heard arguments of the learned Assistant Public Prosecutor and learned defence counsel. Perused the entire record.

8) Now, the points for determination are as follows:

“Whether the prosecution is able to establish the guilt of A1 to A5 for an offence punishable under Sections.420 of IPC and Sec.7(1) of Essential Commodities Act, beyond the reasonable doubt?”

9) **POINT:**

The stand of the accused is of total denial. The prosecution to prove the guilt of the accused examined PW.1 to PW.6 and got marked Ex.P1 to P5. PW1 is the Deputy Tahasildar. PW2 is said to be mediator. PW3 is the Tahsildar. PW4 is the computer operator at MLS point. PW5 is the SI of police who investigated the case. PW6 is the Head constable who registered the case. In so far as exhibits are concerned, Ex.P1 is the mediator report. Ex.P2 is the receipt. Ex.P3 is the report. Ex.P4 is the rough sketch. Ex.P5 is the FIR.

10) In order to establish the guilt of accused for offence

punishable under Section 420 of Indian Penal Code and Section 7(1) of Essential Commodities Act, the prosecution has to establish that the accused had in illegal possession and transporting any essential commodity which is meant for public distribution system at fair prices and thereby violated the orders issued by the Government under the Essential Commodities Act.

11) The learned Assistant Public Prosecutor submitted that the evidence of PWs1 to 6 clinchingly established that accused persons illegally stored the PDS rice for selling the same at higher prices for unlawful gain and therefore, the prosecution is able to establish the guilt of accused under Section 420 of Indian Penal Code and Section 7(1) of Essential Commodities Act beyond the reasonable doubt.

12) On the other hand, the learned defence counsel argued that PWs.1 to 6 are official witnesses, their evidence cannot be relied upon. In addition to that, the learned defence counsel vehemently argued that no document or evidence was placed to show the connectivity of accused with the property alleged to be found from the possession of accused and therefore, the accused are entitled for benefit of doubt.

13) In view of the rival contentions of both sides, the entire evidence is perused.

14) PW1 deposed that on 15.09.2022 LW3/Tadiparthi Laxmareddy called her and informed her that some persons illegally possessed PDS rice. Then herself, LWS2 to 8 went to Venkateswara Poultry Farm of Kattamuru village and called the owner of Venkateswara Poultry farm and there they found the PDS rice in the poultry farm. On enquiry the A5 did not give any proper reply. At that

time they also found four persons coming on TVS bike with PDS rice. A5 confessed that he purchased PDS rice from A1 to A4 in exchange of eggs and cash. A1 to A4 confessed they brought PDS rice from Krosuru village and Pakalapadu village. Then they seized 115 bags from the possession of A1 to A5 under the cover of mediator report. They also handed over the seized rice to MLS point under proper acknowledgment. Later he handed over the accused to Sattenapalli Rural police station and gave complaint against them.

15) During the course of cross examination the PW1 admitted that there are no identification marks on the bags of rice to show that the seized rice is government rice and she also did not draw any sample from the seized rice. She also admitted that the name of the scribe is not mentioned in Ex.P1. She further stated that she is not expert to say that particular rice is the PDS rice. She also stated that she has not seized any cash from A1 to A4 and even they have not examined the customers of accused.

16) PW2-Ch.Kasi Bhaskar Rao deposed that on 15.09.2022 at 01.45 P.M, the PW1 called him and requested him to act as mediator in this case. Then he went to Venkateswara Poultry farm and they found some persons brought rice bags in two wheeler and they stopped the said vehicle and found 100 bags of PDS rice and then they seized the said rice under the cover of mediator report.

17) During the course of cross examination the PW2 stated that he is not expert to say that particular rice if PDS rice and there are no identification mars on the bags to know that the said rice is PDS rice and they also did not sent samples to the expert and he does not know

to what variety of rice the seized rice belongs to.

18) PW3-K.Naga Malleswara Rao deposed that on 15.09.2022 he received credible information from CI of police and then he along with PW1, LWs3 to 8 went to Venkateswara Poultry Farm of Kattamuru village and there they found four persons coming on TVS bike with PDS rice. Then they enquired A5 and on enquiry A5 confessed that he purchased PDS rice from A1 and three others in exchange of eggs and cash. The A5 did not show any receipts pertaining to the said rice and then they seized 115 bags of PDS rice along with motor cycle and bicycle from the possession of A1 to A5 under the cover of mediator report.

19) During cross examination the PW3 admitted that there are no labels of government on the seized property and they are not accompanied with any expert to the place of seizure to know that the seized property is PDS rice. They also have not seized any cash from the accused persons. They have not enquired any nearby villager who sold PDS rice to accused. He further stated that he cannot say to which type of rice the seized rice belong to and he is not an expert and it is also not mentioned that the seized rice is BPT rice.

20) PW4-Md.Mastan Vali deposed that he received 115 bags of rice from one vigilance constable and he gave receipt to that regard. During cross examination the PW4 stated that PW1 did not hand over aforesaid rice to him and he cannot say the type of rice which he received from vigilance.

21) PW5/A.Bala Krishna/SI of police has deposed that on 15.09.2022 he received case record from LW9 and he examined

witnesses in this case and went to scene of offence and prepared rough and after completion of investigation he filed charge sheet against accused. During course of cross examination the PW5 admitted that he has not cited the persons shown in the rough sketch as witness. He also admitted that he did not collect any evidence to show that the seized rice is PDS rice and he also did not receive any complaint from card holders or villagers that the accused was purchasing PDS rice and selling the same at high rates.

22) PW6-A.Siva Prakash Rao/Head constable deposed that basing on the report given by PW1, he registered FIR as a case in Cr.No.147/2022 U/s.420 of IPC and U/s.7(1) of E.C.Act and he took up investigation and examined witnesses, recorded their detailed statements and he served 41-A Cr.P.C notice to accused. During course of cross examination the PW6 admitted that scene of offence is a busy locality and he has not issued any written summons to act as mediators.

23) The learned Assistant Public Prosecutor submitted that the evidence of PWs1 to 6 clinchingly established that accused was illegally transporting the PDS rice for selling the same for unlawful gain and therefore, the prosecution is able to establish the guilt of accused under Section 420 of Indian Penal Code and Section 7(1) of Essential Commodities Act beyond the reasonable doubt. On perusal of the record all the witnesses in this case are official witnesses and there is no independent witness to corroborate with the evidence of PWs1 to 6. On perusal of the evidence of PWs.1 to 3 admitted in their cross

examination that there are no identification marks on the seized bags to show that said rice is Government rice.

24) Furthermore the PW1 stated that A5 confessed that he purchased the PDS rice from A1 to A4 in exchange of eggs and cash. But whereas the PW3 stated that A5 confessed that he purchased PDS rice from A1 and three others in exchange of cash and eggs. So the evidence of PWs1 and 2 are not corroborated with each other on the aspect from whom the A5 purchased PDS rice. Further it is the evidence of PWs1, 3 that they seized 115 bags from the possession of A1 to A5 under the cover of mediator report. When the evidence of PW2/mediator is looked into, he deposed that at request of PW1 he went to Venkateswara poultry form and they found some persons brought rice bags in two wheeler and they stopped the said vehicle and found 100 bags of PDS rice. So the evidence of PW2 is not corroborated with the evidence of PWs1, 3 on the aspect of quantity of bags seized from the possession of accused persons. Even when the Ex.P1/mediator report is looked into, it was mentioned that 115 bags were seized from the possession of accused persons. So the evidence of PW2 being mediator is not corroborated with the content of Ex.P1/mediator report. Hence, the presence of PW2 at the time of seizure of rice from the possession of accused seems doubtful.

25) The PWs1, 3 further admitted that they did not examine any villager who sold alleged PDS rice to A1 to A4. So all the witnesses except Investigating officer, are the revenue officials. No other independent witness was examined in this case. It is apparent that P.W.1 failed to secure local inhabitants to act as mediators. According to Section 100(4), CrPC "Before making a search under this Chapter,

the officer or other person about to make it shall call upon two or more independent and respectable inhabitants of the locality in which the place to be searched is situate or of any other locality if no such inhabitant of the said locality is available or is willing to be a witness to the search, to attend and witness the search and may issue an order in writing to them or any of them so to do." Thus, it is clear that Section 100(4), CrPC has mandated that seizure must be witnessed by at least 2 (two) independent witnesses. But PW1/Deputy Tahasildar failed to secure local inhabitants to act as mediators at the time of seizure of alleged PDS rice from the possession of accused. Hence contents of Ex.P1/mediator report remain unproved.

26) The learned defence counsel argued that as per the prosecution, the accused is said to be transporting the PDS rice to black market. But the PWs1, 3 are not accompanied with any expert to elicit that the seized rice is PDS rice. In such circumstances doubt arises on the case of the prosecution. Moreover, the PW4 is said to be the computer operator at MLS point and he during his cross examination admitted that the PW1 did not handed over rice to him and he cannot say the type of rice he received from vigilance. But it is the case of the prosecution that the PW1 handed over seized rice to PW4. So the evidence of PW4 is also not helpful to the case of the prosecution. So, there is no piece of evidence available on record to show that accused persons are illegally transporting PDS rice.

27) The learned defence counsel further argued that there is no documentary evidence on behalf of the prosecution to prove that the alleged case property is PDS rice. On perusal of the record, there

is no document to show that the case property is the PDS rice and even no sample was taken from the seized property. The civil supplies officials are not said to be expert to get examine the rice whether it is PDS rice or not. Thus, once the charge is specific that the accused was transporting PDS rice, it is duty of the prosecution to prove the same. In the case on hand, the prosecution has miserably failed to raise sample from the seized property and to send the same for analysis to show that the rice seized is PDS rice.

28) In view of the circumstances, there is no iota of evidence on behalf of the prosecution as to how the accused are connected with the illegal possession of PDS rice. Thus, the court finds no convincing and satisfactory evidence to believe the version of PW1 to PW6. Further, in view of all the above lacunae in the investigation, the defence of false implication for statistical purpose, cannot be discarded.

29) In order to bring home the guilt of accused for the offence punishable under section 420 of Indian Penal Code, the prosecution has to establish:-

- 1) that accused deceived the general public to deliver some property / PDS rice or to consent that some person shall retain certain PDS rice or valuable security;
- 2) that the person so deceived was induced by Accused to do as above;
- 3) that such person acted up on such inducement in consequence of his having been deceived by accused

4) that accused acted fraudulently or dishonestly when so inducing that person.

30) Further, in view of the afore mentioned evidence on record, the prosecution has not brought any evidence that the accused persons have induced someone to deliver anything to them or in any way alter or destroy anything in connection to collection of the said rice. As such, the prosecution has miserably failed to bring any material to substantiate the allegation under section 420 of IPC. Accordingly, the offence of cheating is not established against accused.

31) On summing up of the entire evidence, the court finds no admissible oral or documentary evidence establishing the involvement of accused in the alleged offence. Therefore, the court holds that the prosecution failed to establish the guilt of accused for offences punishable under Section 420 of Indian Penal Code and Section 7(1) of Essential Commodities Act. Accordingly, point is answered against the prosecution.

32) In the result, A1 to A5 are found not guilty for offences punishable under Section 420 of Indian Penal Code and Section 7(1) of Essential Commodities Act and they are acquitted under Section 248(1) Criminal Procedure Code and set at liberty. The bail bonds of the accused as well as their sureties shall stand cancelled after six months. No property produced in this case. Hence no orders passed with regard to case property.

Typed to my dictation directly by the Personal Assistant, corrected and pronounced by me in the open court, this the 05th day of December, 2023.

I ADDL JUNIOR CIVIL JUDGE
Sattenapalli

APPENDIX OF EVIDENCEWitnesses examinedProsecution

PW-1: Kolli Aruna Devi/Deputy Tahasildar
 PW-2: Chilaka Kasi Bhaskar Rao/VRO
 PW-3: Koramutla Naga Malleswara Rao
 PW-4: Mohammad Mastan Vali
 PW-5: A.Balakrishna/SI of police
 PW-6: A.Siva Prakasa Rao/Head constable

Defence

None

EXHIBITS MARKEDProsecution

Ex.P-1: Mediator report
 Ex.P-2: Receipt
 Ex.P-3: Report
 Ex.P-4: Rough sketch
 Ex.P-5: FIR

Defence

-NIL-

M.O's. Marked

Nil

I ADDL JUNIOR CIVIL JUDGE
 Sattenapalli