

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 770 OF 2006

SHIVA PRASAD

Appellant (s)

VERSUS

STATE OF A.P.

Respondent(s)

(With appln(s) for bail)

Date: 23/02/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B. SUDERSHAN REDDY
HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR

For Appellant(s)

Mr. V. Shekhar, Sr.Adv.
Mr. John C. Rose, adv.
Mr. Krishna, Adv.
Mr. C. Balakrishna,Adv.

For Respondent(s)

Mr. I. Venkatanarayana, Sr.Adv.
Mr. G.N. Reddy, Adv.
Mr. V. Pattabhiram, Adv.

Mr. D. Mahesh Babu,Adv.

UPON hearing counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the signed
order.

(Sukhbir Paul Kaur)
Court Master

(Renuka Sadana)
Court Master

(Signed Order is placed on the file)
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.770 OF 2006

SHIVA PRASAD

Appellant(s)

Versus

STATE OF A.P.

Respondent(s)

O R D E R

This appeal by special leave is directed against the judgment and order passed by the High Court of Judicature of Andhra Pradesh at Hyderabad in Criminal Appeal No. 735 of 1997 whereby the High Court confirmed the appellant's conviction under Section 13(1)(e) read with Section 13(2) of the Prevention of Corruption Act, 1988 (for short 'the Act'). The High Court also upheld the confiscation of assets worth Rs.8,67,518.22 ps. However, the High Court reduced the sentence of rigorous imprisonment of three years awarded by the Trial Court to that of rigorous imprisonment for one year.

A search of the appellant's house was conducted on the allegation that he possessed assets disproportionate to the known sources of income. The checking period was from 17.3.1954 to 5.8.1989. According to the prosecution, during the checking period, the appellant acquired assets worth Rs.12,49,634.60 ps. No further details in this regard

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are required to be noticed. The appellant was accordingly, charge sheeted for the offence punishable under Section 13(1)(e) read with Section 13(2) of the Act for the alleged possession of the assets of disproportionate value.

The controversy revolves around the properties situated at Babri Alawa, Hyderabad in the name of the appellant's mother Smt. Sundaribai and another property situated at Dewan Devi, Hyderabad in the name of appellant's mother, his wife Smt. Kalavathibai and his maternal aunt Jamuna Bai. These properties which do not stand in his name cannot be treated as an asset of the appellant is the claim of the appellant. This aspect of the matter was considered elaborately by the Trial Court as well as by the Appellate Court. The High Court upon re-appreciation of the facts available

on record found that the income tax returns of the said three ladies indicate that there was no taxable income of anyone of them and it is the appellant who used to file the returns before the authorities concerned as a General Power of Attorney Holder to those ladies.

It

is under those circumstances, the High Court found that the appellant failed to prove the source of acquisition by the aforesaid three ladies and therefore, none of the properties could be treated as properties of anyone

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of those ladies and the only logical conclusion was that the properties were purchased by the appellant.

Be it noted that none of those ladies asserted their right and interest in those properties at any point of time. They did not claim before the Court

that the said properties belong to them and the appellant has no concern with these properties.

It is

for that reason the High Court upon re-appreciation of evidence available on record found that it was not possible to accept that those properties were not that of the appellant but that of three ladies.

This was

the main question that came for consideration before the High Court as well as this Court.

We do not find any error to have been committed by the High Court in recording the finding upon appreciation of the evidence available on record. There is no basis whatsoever to interfere with the finding of the fact recorded by the Courts below.

For the aforesaid reasons, we do not find any merit whatsoever in this appeal.

The minimum sentence to be awarded for the offence punishable under Section 13(1)(e) of the Act read with Section 13(2) of the Act is one year rigorous imprisonment and therefore, there is no discretion left

for us to reduce the sentence awarded by the High

Court.

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However, it is brought to our notice by the learned senior counsel appearing for the appellant that the appellant who is more than 74 years of age is critically ill having suffered a paralytic attack. In the circumstances, the State shall consider as to whether he could be lodged in a Hospital for providing necessary treatment as his condition is stated to be totally unsuitable for being lodged in the jail. An appropriate decision in this regard shall be taken by the competent authority.

With these observations, this appeal shall stand dismissed.

.....J.
(B.SUDERSHAN REDDY)

.....J.
(SURINDER SINGH NIJJAR)

New Delhi,
February 23, 2011