

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. 1632 OF 2005

D. ANIL KUMAR Appellant (s)

VERSUS

STATE OF A.P. Respondent(s)

(With appln. for directions)

WITH APPEAL(CRL) NO. 1633 of 2005

Date: 03/02/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HARJIT SINGH BEDI  
HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For Appellant(s) Mr. ATM Ranga Ramanujam, Sr.Adv.  
Mr.V.J. Francis, Adv.  
Ms. Gouri Karuna Das, Adv.  
Mr.Parchar Sharma, Adv.  
Mr. S.Ashok Kumar, Adv.  
Ms. Rani Jethmalani,Adv.

For Respondent(s) Mr. D. Mahesh Babu,Adv.  
Mr. Ramesh Allanki, Adv.

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

The appeals are disposed of.

[ Usha Bhardwaj ] [ Vinod Kulvi ]  
Court Master Court Master  
Signed order is placed on the file.  
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1632 OF 2005

D. Anil Kumar ...Appellant(s)

Versus

State of A.P. ...Respondent(s)

WITH CRIMINAL APPEAL NO.1633/2005

O R D E R

The appellant claiming to be an unemployed graduate  
made an application dated 24th December, 1992 to the  
General Manager Telecommunications requesting for the grant

of sanction to run a S.T.D/I.S.D/P.C.O line on M.G. Road, Secunderabad. The telephone connection was accordingly released to him under that category. It was subsequently found that he was in fact a graduate and not unemployed inasmuch as he was the executive director of M/s Neera Plastics and a partner in Sri Laxmi Flour Mills.

The appellant was accordingly brought to trial for an offence punishable under Section 420 of the I.P.C. and Section 20-A of the Indian Telegraph Act. The trial court, by its judgment, acquitted him for the offence under Section 20-A of the Indian Telegraph Act but convicted him under Section 420 of the IPC and sentenced him to undergo :2: rigorous imprisonment for a period of six months.

Aggrieved by the aforesaid order of conviction the appellant preferred an appeal before the Metropolitan Sessions Judge, Hyderabad who upheld the order passed by the Sessions Judge. Aggrieved by this order, the appellant preferred a criminal revision petition before the High Court of Andhra Pradesh. The High Court, vide the impugned judgment, confirmed the conviction for the offence under Section 420 of the IPC, but reduced the sentence from six months to three months. After the High Court rendered its judgment, the appellant moved an application before the High Court that he should be released on probation. This application was rejected by the High Court holding that after the judgment had been rendered, it could not interfere in the matter as it had become functus officio. This order has been challenged by the appellant in Criminal appeal No.1633 of 2005.

We have heard learned counsel for the parties and also gone through the judgments of the courts below. We

are of the opinion that in the light of the facts which have been brought on record, the prayer of the appellant to release him on probation must be accepted.

The appellant

was not of a category which could be dubbed as a hardened  
:3:

criminal, and he appears to have resorted to dishonesty to secure a telephone connection on account of exigencies of business, as telephone connections were, at that time, hard to come by. On the contrary it appears that he had utilised the connection exclusively for his personal business and not for any other purpose. Accordingly, having regard to the circumstances of the case, the nature of the offence and the character of the offender, we deem it expedient to release him on probation under Section 4 of the Probation of Offenders Act, 1958 on a personal bond of Rs.1,000/- and one surety in the like amount. We also direct that he will maintain good behaviour for a period of one year from today. With these directions, the appeals are disposed of.

.....J.  
(HARJIT SINGH BEDI)

.....J.  
(CHANDRAMAULI KR.PRASAD)

New Delhi,  
FEBRUARY 03, 2011.