

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. 1102-1103 OF 2009

SHARANAPPA Appellant(s)

Versus

STATE OF KARNATAKA Respondent(s)

W I T H

CRIMINAL APPEAL NO. 1104 OF 2009

SHIVAKUMAR TARNALLI Appellant(s)

Versus

STATE OF KARNATAKA Respondent(s)

J U D G M E N T

N.V. RAMANA, J.

CRIMINAL APPEAL NOS. 1102-1103 OF 2009

These appeals by special leave are directed against the judgment and final order dated 19.08.2008 and 26.08.2008 passed by the High Court of Karnataka Circuit

Bench, Gulbarga in Criminal Revision Petition No. 2440 of 2006, whereby the High Court dismissed the Criminal Revision Petition filed by the appellant herein.

2. Brief history of the case, in a nutshell, is that, under the Government of India's scheme Jawahar Rojgar Yojana, certain modalities and guidelines were issued by the State of Karnataka by Circular dated 23rd June, 1990 for the effective implementation of Million Wells Scheme. One Smt. Devamma (Accused No.1) filed an application in the year 1992 under the scheme for sanction of loan to dig a well in Survey No. 128/C at Village Mutangi measuring 3 acres 25 guntas stated to be owned by her.

3. On 1.4.1992, the Chief Secretary, Zila Parishad, Bidar, after considering the feasibility report entered into an agreement with Accused No.1 who agreed to dig an open well, as per the Million Well Scheme and sanctioned the loan amount. It appears that later on the said Devamma

(Accused No. 1) sold the said land to one Devendrappa (complainant) by suppressing the fact of availing the loan facility under the Millions Wells Scheme.

4. The said Devendrappa lodged a complaint on 7th October, 1993 before the Mannaekhelli Police Station. The complaint was to the effect that when he approached the concerned authorities for obtaining loan under the Million Wells Scheme, the authorities refused to grant loan to him on the ground that the previous owner (accused No. 1) has already availed loan. It was also alleged in the complaint that after availing the loan, accused No. 1 did not dug up the well. After the investigation, charge sheet was filed against six persons including the appellant herein who was Block Development Officer and issued two cheques at the relevant time. The appellant was arrayed as Accused No. 4.

5. The trial Court convicted the accused for the offence punishable under Sections 420 and 468 read with

Section 34 of the Indian Penal Code. He was sentenced to undergo simple imprisonment for 2 years with a fine of Rs.1,000/-, in default of payment of fine, to undergo further simple imprisonment for two months for the offences punishable under Sections 420 read with Section 34 of IPC. Again he was handed over same sentence for the offence under Section 468 read with Section 34, IPC also.

6. Aggrieved by the said order, the appellant filed an appeal before the District and Sessions Judge which came to be dismissed. Then he preferred criminal revision petition before the High Court. The High Court also dismissed the same. Hence, the appellant is before us by way of these appeals.

7. We have heard learned counsel for the parties.

8. The main allegation against the appellant is that he has issued two cheques (Exhibits 43 and 44) in his

capacity as Block Development Officer, on the basis of contract certificates (Ext.P17 to P-21) prepared and signed by Junior Engineers (A5 and A6).

9. During the course of arguments, it was brought to the notice of this Court that the predecessor of the office of the appellant, who worked up to 1.9.1992, also charged and convicted with the same offence (Accused No. 3) as that of the appellant. The said officer also, after considering the report (Exts. P-17 to P-21) submitted by Accused No.6—Junior Engineer, issued two cheques to Accused No. 1 (Exts. P41 and P42). When that matter reached up to this Court in an earlier round of litigation in Special Leave Petition (Criminal) No. 612 of 2009, this Court remanded the matter back to the High Court for reconsideration. On such remand, the High Court vide its judgment dated 8th October, 2009, allowed the Revision Petition and set aside the conviction awarded by the trial Court in CC No. 764 of 1998.

10. It has been submitted that the case of the appellant herein also stands on the same footing with that of Accused No.3, who was acquitted by the High Court. Learned counsel for the appellant, relying upon the said judgment of the High Court, submitted that in fact, it was accused No.3, who has initially, on verification of a report submitted by accused No.6, issued two cheques. Followed by that, the present appellant has issued another two cheques, one for a sum of Rs.1,448/- and another for a sum of Rs.3,300/-. As a matter of fact, as per circular dated 23.6.1990, it is the Chief Secretary of the Zilla Parishad who was responsible being sanctioning authority of the loan.

11. We have heard learned counsel for the State also and perused the material placed before us. A perusal of the judgments of the trial Court as well as the first appellate Court and also the subsequent judgment of the High Court makes it clear that unfortunately, none of the

Courts has looked into the material which is very important to prove the guilt and there is no clear finding about the alleged commission of offence by the present appellant. Without going into the role of the accused—appellant, the Courts have awarded conviction to the appellant as if he had colluded with the other accused in sanctioning the loan as shown in Exhibits P.40 to 43. In our opinion, the appellant-accused has no role in sanctioning the loan or entering into the agreement with the owners of the land—Accused Nos. 1 and 2. He discharged his duties as Block Development Officer and only on the basis of the report submitted by Junior Engineer (Accused No.6), who was the competent person in submitting and recommending the issue of cheques in question. The appellant has merely sanctioned those cheques based on the factual and verification report furnished by the Junior Engineer. In other words, it is the Engineering Department that actually sanctioned the said loan to Accused No. 1 for digging of the well.

12. In the circumstances, there is no material or evidence to substantiate the charges leveled against the appellant herein in this case. The trial Court and subsequently the two appellate Courts have committed legal error and wrongly convicted the appellant. We, therefore, allow the appeals and set aside the conviction of the appellant. Ordered accordingly.

CRIMINAL APPEAL NO. 1104 OF 2009

13. It is submitted by learned counsel for the appellant in this case that the appellant has died.

14. In view of the above statement made by the learned counsel, this appeal stands dismissed as abated.

.....**J.**
(N.V. RAMANA)

.....**J.**
(S. ABDUL NAZEER)

**New Delhi,
February 15, 2018.**

ITEM NO.109

COURT NO.9

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 1102-1103/2009

SHARANAPPA

Appellant(s)

VERSUS

STATE OF KARNATAKA

Respondent(s)

WITH

Crl.A. No. 1104/2009 (II-C)

Date : 15-02-2018 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA
HON'BLE MR. JUSTICE S. ABDUL NAZEER

For Appellant(s)

Mr. Basava Prabhu S. Patil, Sr.Adv.
Mr. Chinmay Deshpande, Adv.
Mr. Sharangowda Patil, Adv.
Mr. G.R. Ahujaj, Adv.
For M/S. S-legal Associates, AOR

Mr. S.K. Kulkarni, Adv.
Mr. M. Gireesh Kumar, Adv.
Mr. Ankur S. Kulkarni, Adv.
For Mr. Vijay Kumar, AOR

For Respondent(s)

Mr. Joseph Aristotle S., Adv.
Mrs. Priya Aristotle, Adv.
Mr. Ashish Yadav, Adv.

Ms. Anitha Shenoy, AOR (Not present)

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

CRIMINAL APPEAL NOS. 1102-1103 OF 2009

There is no material or evidence to substantiate the charges leveled against the appellant herein in this case. The trial Court and subsequently the two appellate Courts have committed legal error and wrongly convicted the appellant. We, therefore, allow the appeals and set aside the conviction of the appellant. Ordered

accordingly.

CRIMINAL APPEAL NO. 1104 OF 2009

It is submitted by learned counsel for the appellant in this case that the appellant has died.

In view of the above statement made by the learned counsel, this appeal stands dismissed as abated.

(SUKHBIR PAUL KAUR)
AR CUM PS

(RENUKA SADANA)
ASST.REGISTRAR

(Signed non-reportable judgment is placed on the file)