

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1165 OF 2014

Deva Ram ... Appellant

Vs.

The State of Rajasthan & Anr. ... Respondents

J U D G M E N T

(SMT.) RANJANA PRAKASH DESAI, J.

1. The appellant was tried by the Judicial Magistrate, First Class, Didwana for offence punishable under Section 420 of the IPC in Criminal Case No. 41/89.

2. Deceased Hardeva Ram filed complaint against the appellant on 9/8/1988 stating that since the appellant used to send persons abroad for employment, he also arranged passport for his son Arjun Ram. The appellant told him that

if he wants to send his son abroad, he will have to pay him Rs.15,000/- and hand over his passport to him. The complainant gave him Rs.8,300/- but the appellant did not send his son abroad. The complainant asked for his money but the appellant refused to return the same. After investigation charge sheet was filed under Sections 406 and 420 of the IPC. The learned Magistrate framed charge under Section 420 of the IPC. The appellant denied the charge. Upon conclusion of the trial, the learned Magistrate by his order dated 13/07/1992 convicted the appellant under Section 420 of the IPC and sentenced him to suffer simple imprisonment for 2 years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for two months. Appeal filed by the appellant was dismissed by the Sessions Court on 12/9/1996. The appellant filed a criminal revision application in the Rajasthan High Court which was dismissed on 23/1/2014. Being aggrieved by the said order the present appeal is filed.

3. It appears that original complainant expired on 30/05/1994. During the pendency of the present appeal, Arjun Ram, the heir of the original complainant and the appellant have entered into a compromise. Application for impleadment was filed by Arjun Ram in which it is confirmed that he and the appellant have compromised the matter. The said application was granted by this Court. This Court was informed that the appellant and the heir of the complainant i.e. the newly added respondent had settled all their disputes and an amount of Rs.8,000/- has already been paid to the newly added respondent. A statement was made by the counsel for the appellant that further amount of Rs.12,000/- will be paid to the newly added respondent within a period of two weeks. This statement was recorded and the matter was adjourned.

4. An application has been filed in this Court by the appellant praying that in view of the settlement, offence may be permitted to be compounded. It is stated that the original complainant and the appellant are close relatives. It

is stated that the original complainant expired on 30/05/1994. Thereafter, the son of the complainant is not keen on prosecuting the proceedings. The appellant is a senior citizen who suffers from various ailments. It is further stated that due to intervention of the elders of the village, dispute between the parties is resolved. The appellant has agreed to pay settlement amount to Arjun Ram. It is further stated in the application that the appellant has paid the fine amount. Affidavit has also been filed by Jagdish Prasad, Power of Attorney holder of the appellant confirming that the matter is settled. Arjun Ram has also filed affidavit confirming that the matter is settled and the appellant has paid the agreed amount to him. Arjun Ram, respondent 2 herein has filed another affidavit dated 17/7/2014 stating that his brothers viz. (1) Hanuman Ram, (2) Hajari Ram, (3) Narayan Ram and (4) Ghirdhari Ram have issued Power of Attorney dated 12/06/2014 in his favour thereby nominating, constituting and appointing him for taking steps in connection with the present appeal. Paragraph 2 of the said affidavit reads thus:

*"2. It is submitted that my brothers namely: (1) Hanuman Ram, (2) Hajari Ram, (3) Narayan Ram, (4) Ghirdhari Ram, all sons and legal heirs of Late Shri Hardeva Ram (the original complainant) have issued a power of attorney dated 12.06.2014, thereby nominating, constituting and appointing me i.e., Arjun Ram s/o. Late Hardeva Ram for doing or executing all or any of the acts or things in connection with the Criminal Appeal No.1165 of 2014, which is annexed herewith and marked as **ANNEXURE-A1** at pages 90 to 91".*

We must note that copy of Deed of Compromise dated 25/2/2014 is also filed in the court. Learned counsel for the parties have confirmed that the matter is settled.

5. We are informed that out of two years imprisonment the appellant has undergone six months imprisonment. Offence under Section 420 of the IPC is compoundable with the permission of the court by the person who is cheated. Since the parties are related to each other and they have decided to accord a quietus to their disputes and live peacefully, we permit them to compound the offence.

Hence, the offence under Section 420 of the IPC for which the appellant was convicted is compounded because it is compoundable with the permission of the court. The appellant is acquitted of the said charge.

6. The appellant is on bail. His bail bond stands discharged. Appeal is disposed of.

.....J.
(Ranjana Prakash Desai)

.....J.
(N.V. Ramana)

New Delhi;
July 23, 2014.

JUDGMENT