

(2017) 01 KAR CK 0113

In the Karnataka High Court

Case No : Crl. RP. No. 100089 of 2015 C/W Crl. RP. Nos. 100090 and 100091 of 2015

Janardhana Shantaram Burge

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 04-01-2017

Acts Referred:

Penal Code, 1860 (IPC) — Section 419, Section 420

Citation : (2017) 1 AirKarR 555

Hon'ble Judges : Mr. S.N. Satyanarayana, J.

Bench : Single Bench

Advocate : M. H. Patil for Sri. Prakash S. Udikeri, Advocates, for the Petitioner; Raja Raghavendra Naik, HCGP, for the Respondent

Final Decision : Disposed Off

Judgement

S.N. Satyanarayana, J.- These three revision petitions arise out of the judgment rendered in C.C.Nos.230, 231 and 232 of 2010 on the file of the JMFC-H, Hubballi. The revision petitioner 5 is common in all the three petitions. The records would disclose that the revision petitioner created forged documents with reference to land 5 bearing Sy.No. 156 of Kiresur village of Hubballi Taluk, which is measuring to an extent of 1 acre 28 guntas. Admittedly, the said land belongs to one Ramachandrappa Mallappa Pattar.

However, the revision petitioner whose name is Janardhan S. Burge created documents to show as if he is the owner in possession and enjoyment of the aforesaid land and by misusing the forged documents, he stood as surety for the accused in several criminal cases and assisted them to getaway from the clutches of the Court with the bail orders secured with the help of these forged documents.

2. The said act of the revision petitioner has come to light when the surety was sought to be invoked in C.C.No.2295/2007 on the file of the JMFC-I, Hubballi,

which is in crime No. 147/2007. On an investigation, it was found that the petitioner herein has stood as surety for two accused in the said proceeding and he has also stood as surety to the accused in other two proceedings by utilizing the same set of forged and concocted documents with reference to land bearing Sy.No.156 belonging to one Ramachandrappa M. Pattar.

3. Hence, on investigation, three proceedings were launched against him which are registered in C. C. Nos.230,231 and 232 of 2010, wherein the offence committed by the accused for the offence punishable under Sections 419 and 420 of IPC was upheld and he was sentenced to undergo simple imprisonment for a period of three years for the offence punishable under Section 420 of IPC and also to pay a fine of Rs. 10,000/- and in default of payment of fine to undergo simple imprisonment for a period of three months. With reference to offence punishable under Section 419 of IPC, he was sentenced to undergo simple imprisonment for a period of one year and it was ordered that both the sentence to run concurrently.

4. Similar order was passed in other two cases. Against which, he has preferred three appeals in Crl. A. Nos. 10, 11 and 12 of 2011 on the file of the I Additional District and Sessions Judge, Dharwad itinerating at Hubballi, which also came to be dismissed by judgment dated 08.12.2011. In effect, the sentence which was delivered by the learned Magistrate is confirmed. As against that, the present revision petitions are filed.

5. When the matter was argued by the learned counsel for the revision petitioner, he would bring to the notice of this Court that the sentence awarded in each case for different offences were ordered to run concurrently. However, the sentence which is ordered in each of the cases is directed to run consecutively. His first prayer is that the sentence which is handed down to the common revision petitioner in these three proceedings should be made to run concurrently by relying upon the judgment of the Hon''ble Apex Court in the case of V.K. Bansal v. State of Haryana and Another reported in (2013) 7 SCC 211.

6. After going through the said judgment, more particularly, paragraphs 17 and 18 of the said judgment and as well as the relevant portion at paragraph 19.1, the same would clearly indicate that, under what circumstances different offences could be considered as offences committed in one transaction and how it should be dealt differently when offence is committed under different transactions between different persons. If that analogy which is upheld by the Apex Court is appreciated in the background of this case, the submission of the learned counsel appearing for the revision petitioner cannot be accepted inasmuch as the said judgment instead of supporting his argument go against the revision petitioner.

7. In this background, the learned counsel would put forth second line of argument, wherein he requested the Court to reduce the sentence handed down to the revision petitioner herein for the offence punishable under Section 420 of

IPC, for which three years sentence is awarded in each of the criminal case. According to him, the revision petitioner herein is taken into custody on 24.10.2009 and since then he has completed the sentence for more than seven years two months as on date. Considering the nature of offence and the sentence which is already completed by the petitioner herein, he would say that the sentence awarded on him with reference to offence punishable under Section 420 of IPC be reduced in each of the case to two years six months instead of three years. He would request that the sentence imposed under Section 419 of IPC may be remain undisturbed. With this, the total period which he has to undergo in each of the case would be two years six months. If the same is taken into consideration, in all these three matters, it would consecutively workout to seven years six months.

8. This submission of the learned counsel for the revision petitioner is accepted in the background of facts of the case and also the fact that for the offence committed by him, he has already undergone more than seven years two months sentence. Therefore, it may not be necessary to continue his imprisonment for another two years. Therefore, taking a lenient view, this Court would modify the judgment rendered in C.C.Nos.230, 231 and 232 of 2010 on the file of JMFC-II, Hubballi in reducing the sentence from three years to two years six months for the offence punishable under Section 420 of IPC and the same to run concurrently with the sentence which is imposed for the offence punishable under Section 419 of IPC in each case.

9. If that is taken into consideration, in three cases, he has to undergo imprisonment for a period of two years six months each. If they run consecutively, he will have to be in prison for a period of seven years six months. By modifying the sentence in the aforesaid form, all the three petitions are disposed of.