

IN THE COURT OF PRINCIPAL JUNIOR CIVIL JUDGE –CUM- JUDICIAL
MAGISTRATE OF FIRST CLASS :: AT GAJWEL.

PRESENT : SMT. E. SUCHARITHA,
I Addl. Junior Civil Judge -cum-
I Addl. JMFC, Gajwel.
FAC : Principal Junior Civil Judge –cum-
JMFC, Gajwel.

Friday, the 05th day of July, 2019.

C.C.No. 01 of 2017
(Cr.No. 75/2016 of P.S. Toopran)

Between :-

The State of Telangana, represented by
Sub-Inspector of Police, Toopran P.S.

....Complainant

A N D

Yerpula Shivaraj, S/o. Sailu, Age : 38 Yrs, Caste : SC Madiga,
Occ : Business, R/o. Masaipet (V), Yeldurthy (M).

....Accused.

This case is coming before me for final hearing on 21-06-2019 in the presence of Sri P.Ashok Reddy, in-charge Asst. Public Prosecutor for the State and of Sri M.Ashok, Counsel for the Accused, upon perusal of the material papers and upon hearing the arguments, this Court delivered the following:-

-: J U D G M E N T :-

1. The State representing through the Sub-Inspector of Police, P.S. Toopran has filed the charge sheet against the Accused in Crime No. 75/2016 for the offence punishable under section 420 IPC.

2. The brief facts of the prosecution case are that on 27-03-2016 at 08:00 hours, *de facto* complainant namely K.Lingam/PW-1 came to police station and lodged a report, stating that one Yerpula Shivaraj/accused has purchased the land in Sy.No.451/EE to an extent of 215.55 Sq. feet through GPA from the Baikadi family members vide document No. 1683/2002. Later accused has sold the land to GRK Anand/PW3 through registered document No. 3574/2002, whereas PW3 has sold the said land to N. Venkat Uday Kumar/PW4 through registered document No. 14016/2006 and he/PW-1 purchased the same land from PW4 through registered document No. 475/2016, dt.29.02.2016. Later

he/PW-1 cleaned the land and erected stone pillars. Whereas the accused sold the same land to one Bhoomannagari Yadaiah through document No. 8636/2004 and also sold to Swargala Narsimulu/PW2 and Chelimela Ramulu/PW5 through document No. 497/2016, dt: 02-03-2016. PW2 & 5 are claiming that the land which is purchased by PW1 belongs to them. Thus accused cheated them by selling the same land to four of them by concealing the earlier transfer of same land. Hence, PW-1 requested to take necessary legal action.

3 (i). Basing on the report, PW-6/Sub-Inspector of Police registered a case in Crime No. 75/2016 for the offence punishable under section 420 IPC and took up the investigation. During the course of investigation, PW-1 to PW-5 were examined and their statements were recorded.

(ii). While the investigation was in progress, on 22-06-2016 notice under section 41 (A) of Cr.P.C. was served on accused and he produced sufficient sureties, as such he was released on station bail. On completion of investigation, the charge sheet was filed against the accused.

4. Cognizance for the offence under section 420 IPC has been taken against the accused.

5. On appearance of the accused before this Court, he is furnished with the copies of documents as contemplated under Section 207 Cr.P.C.

6. Accused is examined under Section 239 Cr.P.C., for which he denied the accusation, then charge under section 240 Cr.P.C., for the offence under U/Sec. 420 IPC is framed, read over and explained to him, for which he pleaded not guilty and claimed to be tried.

7. In support of its case, the prosecution has examined PW-1 to PW-6 and got marked Ex.P1 to Ex.P6.

8. After closure of prosecution evidence, the Accused is examined U/Sec. 313 Cr.P.C by explaining the incriminating substance appearing against him in the evidence of prosecution witnesses, for which he denied and reported no defence evidence.

9. Heard the arguments on both sides and perused the material on record.

10. Now the point for consideration is :-

“Whether the prosecution has proved the guilt of the Accused for the offence punishable under section 420 IPC beyond all reasonable doubt ?

POINT :-

Evidence on record in brief:

11. In this case, PW1 is the defacto complainant and victim, PW2 to PW5 are Circumstantial witnesses and PW6 is the investigating officer.

12. PW1 who has set the law into motion by lodging report at police station under Ex.P1, deposed before this court on oath that he purchased land on 29.02.2016 from PW4/Venkata Uday Gopal in Sy. No. 451/EE to an extent of 215.25 sq. yds. PW4 purchased the above said land from PW3/GRK Anand in the year 2006 through registered document. PW3 purchased the land through GPA holder Yerupula Shivaraju/accused, in the year 2002. The witness stated that he has purchased the land vide document No. 475/2016. In order to level the land which he has purchased PW1 went to the land with tractor and also erected stone pillars. But PW2/Swargala Narsimhulu and PW5/Chalimela Ramulu came there and claimed that the land was purchased by them. When PW1 has shown his documents to them, they have shown their documents to PW1. All of them found that Yerupula Shiva raj/accused has again registered the document on 02.03.2016 regarding the land which PW1 purchased. At that time a quarrel took place and later PW1 went to the police station and informed against accused. In the cross examination PW1 stated that Baikadi Bhudaiah, Narsimulu and Mutyalu executed general power of attorney to accused in the year 2002. He further

stated that he has purchased plot No. 1 bounded by East - 16 feet road, West - vendors land, North - 18 feet road and South - Srivani Srishiq land. Further PW1 denied the suggestion that the plot purchased by PW1 is different from that of the land purchased by PW2 & 5. He also denied to the suggestion that in the land purchased by him he has built a house and sold it and thereafter lodged Ex.P1.

13. The second witness/PW2 who got examined is Swargala Nasimulu, this witness has deposed that he do not know anything about the case. The learned APP has sought permission of this court to cross examine him, but nothing could be elicited from PW2 in support of the prosecution's case. The third witness/PW3 who got examined is GRK.Anand, this witness deposed on oath that in the year 2002 vide document No. 3574/2002 he has purchased 250 sq. yds from the accused. Later he sold the said land in the year 2006 to his relative PW4. He also deposed that he came to know that accused sold a part of the same land to someone.

14. The fourth witness/PW4 who got examined by the prosecution is Nandigama Venkata Uday, this witness deposed that he purchased 215 sq. yds in Sy. No. 451/E from PW3 in the year 2006. Later he sold the same land to PW1 in the year 2016. He also deposed that PW3 purchased the same land from accused. Accused again sold the land to someone in the year 2016.

15. Chelimela Ramulu got examined by the prosecution as PW5 and he deposed before the court that he do not know anything about this case. The learned APP has sought permission of this court to cross examine him, but nothing could be elicited from PW5 in support of the prosecution's case.

16. The final witness/PW6 who got examined by the prosecution is the investigation officer, he deposed that on 26.03.2016 PW1 lodged report and he registered a case in Cr. No. 75/2016 U/s 420 of IPC under Ex.P4/FIR. Later he recorded the statements of PW1 and collected documents from PW1. Document No. 3746/2002 is marked as

Ex.P5. PW6 deposed that in the year 2002 under Ex.P5 accused sold plot to Srivani Srishiq. Later in the year 2016 accused again sold the same plot to PW2 & PW5 vide document No. 497/2016. He also deposed that PW1 also has given him document No. 3574 and the same is marked as Ex.P6. Later PW6 deposed regarding issuing of notice and filing of charge sheet.

Appreciation of Evidence:-

17. Its the case of prosecution that Plot No. 1 which was purchased by PW1 on 29.02.2016 was sold by the accused to PW2 and PW5 on 12.03.2016. Surprisingly the prosecution did not exhibit the registration sale deed document vide which PW1 purchased plot No.1 from V. Uday Gopal/PW4. However, PW1 admitted in his chief examination that plot No.1 in Sy. No. 451/EE to an extent of 215.25 sq.yds was purchased by him. In the cross examination he has mentioned the boundaries of Plot No.1 which he purchased as East: 16 feet road, West: Vendors land, North: 18 feet road, South: Srivani Srishiq's land.

18. Now lets check whether the same plot No.1 which was purchased by PW1 was sold to PW2 & PW5. In the present case prosecution failed to get exhibited any document which discloses the sale of land by accused to PW2 & 5. Infact there are only two registered sale deed documents exhibited and marked by the prosecution in this case and they are Ex.P5 & Ex.P6.

19. Ex.P5 document No.3746 of 2002 dt. 16.08.2002 discloses that the vendor is Baykadi Buddaiah, Baykadi Chinna Narsaiah and Baykadi Mutyalu represented by GPA cum sale agreement holder as accused. The vendee is Srivani Srishiq. The schedule property is with Sy. No. 451/EE, A2, E and the plot number is 2. The extent is 224 sq. yds, whereas the boundaries are East: 16 feet road, West: Chakali narsaiah land, North: Anand plot, South: vendor's plot.

20. Ex.P6 document No.3576 of 2002 dt. 25.07.2002 discloses that the vendor is Baykadi Buddaiah, Baykadi Chinna Narsaiah and Baykadi Mutyalu with represented by

GPA cum sale agreement holder as accused. The Vendee is PW3. The schedule property is with Sy. No. 451/EE and the plot number is 1. The extent is 215.25 sq. yds, whereas the boundaries are East: 16 feet road, West: K. Lakshmi Narsaiah plot, North: Road 18 feet, South: Vendor's plot, with regards to this document Ex.P6 there is no dispute in this case in fact Ex.P6 is the document vide which PW3 has purchased Plot No.1 and later sold the same in the year 2006 to PW4 and the same is admitted by PW1, PW3 & PW4. This is the same plot which the defacto complainant/PW1 purchased from PW4. But this document does not help the case of the prosecution that the same plot was sold to others by accused.

21. Coming to Ex.P5 it relates to plot No.2. Both PW2 & PW5 who came to PW1's plot and claimed that the plot was purchased by them also, did not depose anything before this court against the accused. The investigation officer/PW6 failed to investigate as to what was the actual approved layout made with regards to Sy. No. 451, especially with regards to sub division EE of Sy. No. 451. No approved lay out is marked in this case. Infact PW6 admitted in his cross examination that he has not examined the Grampanchayath authorities with regards to this case. It is argued by learned counsel for accused that plot purchased by PW1 is plot No.1 and the plot purchased by PW2 & PW5 is plot No.2 and the boundaries are also different. On record there is only oral evidence of PW1 alleging double registration of same plot No. 1 by accused, but there is no documentary evidence. Ex.P5 & P6 did not help the case of prosecution. The oral evidence of PW3 discloses that PW3 purchased 215 sq. yds, from the accused vide document No. 3574/2002/Ex.P6 and sold the same to PW4 in the year 2006. PW4 oral evidence is regarding purchase of plot No.1 from PW3 and selling it to PW1 in the year 2016. Both PW3 & 4 deposed in their chief that accused again sold the same to someone. Now who is this someone, when did accused sell and vide which document is not deposed by PW3 & 4. Infact no document is adduced by the prosecution to show that accused sold the same plot No.1 which was sold to PW1 or a part of the same plot No.1 which was sold to PW1, to another person. Further PW6 failed to examine

Bommannagari Yadaiah, who is the person alleged by PW1 in Ex.P1 that accused also sold the same land purchased by PW1 to Bommannagari Yadaiah.

22. In the absence of documentary evidence it is not safe to convict the accused U/s 420 IPC only by relying on the oral evidence of PW1 and the vague allegation of PW3 & PW4. Hence the accused is given benefit of doubt.

RESULT:-

In the result, accused is found not guilty for the offence punishable U/Sec. 420 IPC and he is acquitted under Section 248 (1) Cr.P.C. The bail bonds of the accused shall stand cancelled and sureties are discharged after expiry of appeal time.

Typed to dictation by the Stenographer on the chamber computer, corrected and pronounced by me in the open court on this the 05th day of July, 2019.

**FAC. Prl. JCJ-cum-JMFC
Gajwel**

**APPENDIX OF EVIDENCE
Witnesses examined for**

PROSECUTION:

PW.1 : K. Lingam/ Defacto Complainant & victim
PW.2 : Sargala Narsimulu/ Circumstantial witness
PW.3 : G.R.K. Anand/ Circumstantial witness
PW.4 : Nandigama Venkata Uday Kiran/ Circumstantial witness
PW.5 : Chelimela Ramulu/ Circumstantial witness
PW.6 : N. Venkatesh/ Investigation Officer

DEFENCE

- None -

EXHIBITS MARKED FOR

PROSECUTION:

Ex.P1 : Report lodged by PW1
Ex.P2 : Sec. 161 Cr.PC statement of PW2
Ex.P3 : Sec. 161 Cr.PC statement of PW5
Ex.P4 : First Information Report
Ex.P5 : Mee seva copy of registered sale deed vide document No. 3746/2002
Ex.P6 : Mee seva copy of registered sale deed vide document No. 3574/2002.

DEFENCE

- Nil -

MATERIAL OBJECTS

- Nil -

**FAC. Prl. JCJ-cum-JMFC
Gajwel**

