

State By Jnanabharathi vs No.1 And 2 For The Offences Punishable on 1 August, 2022

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KABC030796942013

IN THE COURT OF THE IX ADDL.CHIEF METROPOLITAN
MAGISTRATE, AT BENGALURU.

Dated this the 1st day of August 2022

Present : Sri.R.Mahesha.
B.A.L., LLB.,
IX Addl.C.M.M., Bengaluru.

CC No.21597/2013

1.C.C.No.	21597/2013
2.Date of offence	16/2/2012
3.Complainant	State by Jnanabharathi Police Station.
4.Accused	1.Jyothi W/o.Ramesh Aged about 55 years, R/No.13, 11th Cross, Papareddypalya, 2nd Stage, Nagarabhavi, Bengaluru. 2. Babu (Split-up) 2
5. Offences complained of	U/Sec. 420, 465, 468 r/w 34 of IPC.
6.Plea	Accused No.1 pleaded not guilty.
7.Final Order	Accused No.1 is acquitted.
8.Date of Order	01/08/2022.

JUDGMENT

The Police Sub-Inspector of Jnanabharathi Police Station, Bengaluru has filed this charge sheet against the accused No.1 and 2 for the offences punishable u/Sec.420, 465, 468 r/w 34 of IPC.

2. The brief facts of the prosecution case are as under:

It is the case of the prosecution that on 16.2.2012 at about 1.30 pm situated at house No.19, Krishnappa Layout, Srigandakaval, Bengaluru within the limits of Jnanabharathi Police Station, the complainant was a tenant on the said building the accused were residing and accused No.2 running prostitution along with his wife Lalitha on the instigation of owner of the building accused No.1, when the complainant opposed to the owner and vacated the house forcibly and when complainant asked to refund the advance amount at that time the accused persons with common intention opened the door causing damage and trespassed into the house took the agreement and forged the same. In this regard, CW.1 lodged first information statement and based on the same FIR came to be registered in Cr.No.178/2012 for the offences punishable u/Sec.420, 465, 468 r/w 34 of IPC. Thereafter, CW.13 completed the investigation and filed the charge sheet against the accused for the offences punishable u/Sec.420, 465, 468 r/w 34 of IPC.

3. After filing of the charge sheet this Court has taken the cognizance of the offences punishable u/Sec. 420, 465, 468 r/w 34 of IPC and issued summons to the accused. They have appeared before this Court through their counsel and obtained bail. The copy of the charge sheet has been furnished to the accused as per Sec.207 of Cr.P.C. But accused No.2 has not secured. Hence, case against the accused No.2 is split-up. After hearing both sides the charge has been framed and read over to accused. But they have pleaded not guilty and claimed to be tried. Hence, the case has been posted for prosecution evidence.

4. The prosecution in order to prove its case has examined only one witness as PW.1 and got marked only one document as Ex.P.1. Thereafter, the statement of the accused u/Sec.313 of Cr.P.C. has been recorded. She has denied the incriminating circumstances appearing in the prosecution evidence against her. She has not chosen to adduce his defence evidence.

5. I have heard the arguments of both sides. Perused the entire oral evidence and documents placed on record.

6. The points that arise for my consideration are as under:

(1) Whether the prosecution proves beyond reasonable doubt that on 16.2.2012 at about 1.30 pm situated at house No.19, Krishnappa Layout, Srigandakaval, Bengaluru within the limits of Jnanabharathi Police Station, the complainant was a tenant on the said building the accused were residing and accused No.2 running prostitution along with his wife Lalitha on the instigation of owner of the building accused No.1,

when the complainant opposed to the owner and vacated the house forcibly and when complainant asked to refund the advance amount at that time the accused persons with common intention opened the door causing damage and trespassed into the house took the agreement and forged the same and thereby committed an offences punishable under Sec. 420, 465, 468, 471 r/w Sec.34 of IPC ?

(2) What order ?

7. My findings to the above points are as under:

Point No.1 : In the Negative, Point No.2 : As per final order, for the following :

REASONS

8. Point No.1 :- The prosecution has alleged that on on 16.2.2012 at about 1.30 pm situated at house No.19, Krishnappa Layout, Srigandakaval, Bengaluru within the limits of Jnanabharathi Police Station, the complainant was a tenant om the said building the accused were residing and accused No.2 running prostitution along with his wife Lalitha on the instigation of owner of the building accused No.1, when the complainant opposed to the owner and vacated the house forcibly and when complainant asked to refund the advance amount at that time the accused persons with common intention opened the door causing damage and trespassed into the house took the agreement and forged the same. Therefore, the burden is on the prosecution to prove guilt of the accused. As already stated supra, the prosecution has examined only one witness as PW.1 and got marked one document as Ex.P.1.

9. In order to prove the guilt of the accused the prosecution has cited CW.1 to CW.19. CW.1 to 13 and CW.15 to 19 are not examined by the prosecution. The prosecution is successful in examined one witness CW.14 as PW.1 before this Court. This witness being handwriting expert and being Deputy Director QD Section, Madivala, Bengaluru. She deposed before this Court that she served as Deputy Director in QD Section, Madivala. From 2004 when she was working in FSL Deputy Director in QD Section, Madivala on 30/7/2012 this case papers six sealed covers received from Assistant Director which are numbered as QD NO.550/2012 and handed over said six sealed covers to her for examination. She verified sample seals and other particulars which are found to be in order and thereafter, she opened six sealed covers the 1 st article is rental agreement dated 3/8/2010 the disputed signatures are QS 1 and 2 and 2nd article was rental agreement dated 30/8/2010 its bare signature of one Shoba and another record annexed to said rental agreement i.e. sale agreement dated 16/7/2002 which contains six pages and had sample signatures which were marked as S.1 to S.5 and R.1 to R.6. Thereafter, admitted signatures of one Smt.Jyothi in rent agreement dated 30/8/2010 and sale agreement dated 23/12/2011 the said admitted signatures were marked as S6 to S10 and sample signatures of Jyothi in each six pages are marked as Ex.P.1 to Ex.P.6. She did all the signatures by using technical instrument i.e. compassion micro scope, micro watcher, video spectacle comparator 5000 and she came to conclusion regarding the disputed signatures that the signatures i.e. S1 to S6 and R1 to R6 the person is not wrote QS1 and the QS1 was forged signature and further she deposed S6 to S10 and P1 to P3 which were wrote by person, the same version did

QS2 signature and she gave detailed reasoned report to Investigation Officer of this case on 29/8/2012 and she identified the said report which has been placed before this Court as Ex.P.1 and her signature got marked as Ex.P.1(a). She has been subjected by cross- examination by accused. During the course of cross- examination it is elicited that she did her M.Sc. Degree in Geology and Information Technology. Further she deposed she did her Phd in Geology subject. Further she clearly admitted during the course of cross-examination that she did not get any degree in signature expert and degree but she volunteers before this Court that she get training in NICFS at Delhi. Further it is elicited during the course of cross-examination that she did not done calligraphic course and she did not aware about calligraphic course. Further it is elicited from this witness during the course of cross- examination that she did not able to say the age of admitted signature and questioned signature. She specifically denied the suggestion of the accused that after completion of substantial time there could be possible of changes in signatures by the persons. Further it is elicited during the course of cross-examination that she personally verified technology instrument and submitted her report and signed in Ex.P.1. Further she denied the specific suggestions of the accused that she did not submit her training certificate regarding NICFS Delhi before this Court and though she had specific knowledge about giving opinion regarding admitted signature and questioned signature she gave Ex.P.1 on assumption in order to help the police in this case.

10. It is relevant to note that in spite of issuance of summons and witness warrant to CW.1 to CW.3 and CW.15 to CW.19 through the Deputy Commissioner of Police, they have not been secured before this Court. Therefore, non-examination of material witnesses is fatal to the prosecution case. Therefore, there is no supporting evidence from the evidence of PW.1. Therefore, the prosecution has utterly failed to prove the charges levelled against the accused beyond reasonable doubt. Accordingly, I answer Point No.1 in the negative.

11. Point No.2: For the aforesaid reasons, I proceed to pass the following:

ORDER Acting under Section 248(1) of Cr.P.C., accused No.1 is hereby acquitted of the offences punishable u/Sec. 420, 465, 468 r/w 34 of IPC. The bail bond and surety bond of accused No.1 stands cancelled.

The office is directed to keep the entire file in split-up case.

(Dictated to the stenographer directly on computer, corrected directly on computer and then pronounced by me in open court on this the 1st day of August 2022).

(R.Mahesha) IX Addl.Chief Metropolitan Magistrate, Bengaluru.

ANNEXURE List of witnesses examined on behalf of the prosecution:

PW.1: Smt.Kumuda Rani.

List of documents marked on behalf of the prosecution:

Ex.P.1 : Opinion
Ex.P.1(a): Signature of PW.1.

List of material objects marked on behalf of the prosecution:

- NIL -

List of witnesses examined on behalf of the defence:

- NIL -

List of documents and materials marked on behalf of the defence:

- NIL -

IX ADDL.C.M.M. Bengaluru.

12 Judgment pronounced in the Open Court (Vide separate order) ORDER Acting under Section 248(1) of Cr.P.C., accused No.1 is hereby acquitted of the offences punishable u/Sec. 420, 465, 468 r/w 34 of IPC. The bail bond and surety bond of accused No.1 stands cancelled.

The office is directed to keep the entire file in split-up case.

IX ACMM, Bengaluru.