

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

CRIMINAL REVISION CASE NO.1710 of 2006

JUDGMENT:

This revision is preferred against judgment dated 16.10.2006 in Criminal Appeal No. 397 of 2005, whereunder judgment dated 07.11.2005 in C.C. No. 324 of 2002 on the file of the Additional Junior Civil Judge, Mangalagiri, is confirmed.

2. The brief facts leading to this revision are as follows:

The Sub-Inspector of Police, Tadikonda police station, filed charge sheet against the revision petitioner alleging that on 13.04.2002, at about 11.30 P.M., while Kankanala Seetaramaiah (PW1) was returning home after watching T.V. at Mothadaka bus stop center, he was attacked and beaten on forehead and back, as a result he received bleeding injuries. One Nimmagadda Veeraiah (PW2), Nimmagadda Hanumantha Rao (PW3) and Sambaiah witnessed the incident and on seeing them, the accused fled away. Immediately, PW1 is shifted to hospital by his father Kankanala Panduranga Rao (PW4) and on the statement of PW1, police registered a case and investigated, which revealed that the revision petitioner committed an offence punishable under Section 324 IPC.

3. The learned trial Court Judge, after framing charge under Section 324 IPC, conducted trial during which six (06) witnesses were examined. PW1 is victim, PWs 2 and 3 are eye witnesses, PW4 is the father of victim, PW5 is Medical Officer and PW6 is the Investigating Officer.

4. On a overall consideration of oral and documentary evidence, the trial Court found the revision petitioner guilty for

the offence under Section 324 IPC and sentenced him to suffer six (06) months simple imprisonment.

5. Aggrieved by the said conviction and sentence, the revision petitioner preferred the appeal to the Court of the III Additional Sessions Judge, Guntur.

6. The learned III Additional Sessions Judge, Guntur, on reappraisal of the evidence, held that offence under Section 324 is not made out, but the evidence on record attracts an offence under Section 323 IPC. Accordingly, convicted the revision petitioner for the offence under Section 323 IPC, sentenced him to suffer three (03) months imprisonment with a fine of Rs. 1,000/-. Now, aggrieved by the said conviction and sentence, the present revision is preferred.

7. Heard both sides.

8. The advocate for the revision petitioner submitted that there is a delay in registering the case and submitted that according to prosecution, the incident was on 13.04.2002, at about 11.30 P.M., but FIR is registered on 22.04.2002. He further submitted that there are discrepancies in the evidence of PWs 1 to 4 and both the trial Court and the appellate Court noticed these discrepancies and discarded them on the ground that they are minor discrepancies. He submitted that these discrepancies are not minor, but they are very much material in proving the guilt of the accused. He further submitted according to prosecution, attack was made with a stick, but the investigating officer has not seized the stick. For all these

reasons, the accused has to be given benefit of doubt. He further submitted that for any reason his submission is not accepted, sentence may be modified, considering passage of eleven (11) years.

9. Learned Public Prosecutor submitted that the discrepancies noticed by the Courts below are not major discrepancies and both the Courts rightly ignored them. He further submitted that both the Courts concurrently held that the accused committed the offence and that there are no grounds to interfere with the judgments of Courts below. He submitted that with regard to sentence, he would leave the matter to the discretion of the Court.

10. According to prosecution, the incident was on 13.04.2002, at about 11.30 PM. PW1 deposed in his evidence that on festival day, in the month of October, 2002, during night time, after watching T.V. programme at the center of his village, he was going back to his house and at that time, the accused came behind him and beat him with stick on his head, back and left hand which caused bleeding injuries. His evidence is supported and corroborated by PWs 2 and 3, who are eye witnesses. The victim PW1 was examined by PW5 on 14.04.2002, at 12.05 A.M., i.e., on the intervening night of 13/14.04.2002, before whom PW1 stated that he was beaten by a known person with hands. From the wound certificate, the injuries sustained by PW1 are simple and the X-ray reveals no bone injury. Considering the evidence of PW1 and the medical evidence of PW5, the lower appellate Court converted the conviction for the offences under Section 324 IPC into Section 323 IPC.

11. From the evidence on record, it is clear that PW1 was attacked with hands only and no weapon is used in the commission of offence. The lower appellate Court for the offence under Section 323 IPC imposed punishment of three (03) months imprisonment and fine of Rs.1,000/-. Now, the request of the learned counsel for the revision petitioner is that due to passage of time and as the offence under Section 323 is punishable with imprisonment or fine or with both, the fine amount that is imposed on the revision petitioner may be confirmed by setting aside the sentence of imprisonment.

12. On a perusal of the material on record, and taking the facts of the case into consideration, I feel imposition of fine would meet the ends of justice. Therefore, the conviction of the revision petitioner for the offence under Section 323 IPC is confirmed, but the sentence is modified by setting aside the imprisonment of three (03) months and confirming fine amount of Rs.1,000/- for the offence under Section 323 IPC.

13. With this modification, the Criminal Revision Case is dismissed.

14. As a sequel, miscellaneous petitions, if any, filed in this revision, shall also stand dismissed.

JUSTICE S. RAVI KUMAR

31-12-2013

vhb

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

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