

HON'BLE SMT JUSTICE ANIS
CRIMINAL REVISION CASE No.881 OF 2008

ORDER:

This Criminal Revision Case under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C') is filed by the revision petitioner herein challenging the judgment dated 10.03.2008, in CrI.A.No.44 of 2007 passed by the Sessions Judge, Mahabubnagar, whereunder and whereby the conviction and sentence passed against the revision petitioner herein for the offence punishable under Section 324 IPC, vide judgment dated 05.03.2007 in C.C.No.237 of 2005 by the Judicial Magistrate of First Class, Nagarkurnool, was confirmed.

2. The revision petitioner herein is the accused and respondent herein is the complainant in C.C.No.237 of 2005 before the trial Court. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed in the C.C. before the trial Court.

3. The brief facts of the case are that on 01.01.2005 at about 11:00 A.M. *de facto* complainant (PW.1) along with his brother-in-law sat before the shops and chitchatting with each other, meanwhile the accused came to him from back side with a stick and beat PW.1, due to which, PW.1 received injuries over his left shoulder. After receiving the complaint from PW.1, PW.5 registered the case in Cr.No.1 of 2005 of Gopalpet Police Station under Sections 324 and 504 IPC and took up investigation. During the course of investigation, the Investigating Officer recorded the statements of PWs 1 to 3 and sent the injured to the Government Hospital, Wanaparthy for treatment. PW.5 also visited the scene of offence and conducted scene of offence panchnama in the presence of mediators and after completing investigation, filed charge sheet into the Court.

4. The learned Judicial Magistrate of First Class, Nagarkurnool, took cognizance of the case and framed a charge for the offence punishable under Sections 324 and 504 IPC against the accused. During trial, to prove the case of prosecution, PWs.1 to 6 were examined and Exs.P1 to P4 and D.1 to D.3 were got marked.

5. After closure of the prosecution evidence, accused were examined under Section 313 Cr.P.C putting all incriminating material available against him. Accused denied the material evidence and reported no oral or documentary evidence on his behalf.

6. The trial Court, after considering the evidence of PWs 1 to 6 and the documentary evidence, found the accused guilty for the offence punishable under Section 324 IPC and convicted and sentenced him to pay a fine of Rs.1,000/- (Rupees one thousand only), and in default of payment to undergo Simple Imprisonment for a period of one month. The trial Court acquitted the accused for the offence punishable under Section 504 IPC.

7. Aggrieved by the conviction and sentence passed by the trial Court, accused preferred Criminal Appeal No.44 of 2007 before the Sessions Judge, Mahabubnagar, wherein the Appellate Court, after considering the evidence on record, confirmed the conviction and sentence passed against him.

8. Being aggrieved by the judgment of the Appellate Court passed in Criminal Appeal No.44 of 2007, the accused preferred the present revision case.

9. Learned counsel appearing for the revision petitioner/ accused argued that due to political rivalry, false case has been initiated by the *de facto* complainant who belongs to T.D.P., whereas the petitioner/accused belongs to Congress party and there are also

civil disputes between them. Further the medical evidence is not supported the evidence of PW.1 regarding the injury and there are no other independent witnesses examined by the prosecution and prayed the Court to set aside the judgment of the appellate Court in Crl.A.No.44 of 2007 on the file of the Sessions Judge, Mahabubnagar confirming the judgment in C.C.No.237 of 2005 dated 05.03.2007 on the file of Judicial Magistrate of First Class, Nagarkurnool.

10. On the other hand, the learned Public Prosecutor appearing for the State argued that the evidence of PWs 1 to 3 supported by the evidence of other witnesses is consistent and the accused attacked P.W.1 with the cart peg from back side and thus, PW.1 received injury on the left shoulder. He further argued that the trial Court as well as the appellate Court has taken lenient view and awarded only Rs.1,000/- as fine amount and the findings of both the Courts need no interference and prayed the Court to dismiss the revision petition filed by the petitioner.

11. Now, the point for determination is --

Whether the prosecution could bring home the guilt of the accused for the offence punishable under Section 324 IPC, with which he is charged?

12. **POINT:**

A perusal of the record shows that PW.1, who is the *de facto* complainant, stated that on the date of incident at about 11:00 A.M. himself and PW.2 sat in front of cattle shed and were chitchatting and at that time, accused came from back side and beat him with cart peg and on his shoulder and then he fell unconscious, and after regaining conscious, he lodged Ex.P.1 complaint and he was referred to the hospital for treatment. PWs 2 and 3 who are eye witness supported the evidence of PW.1 regarding the manner of attack by accused. PW.4 is the panch witness to the scene of offence panchnama stated that on the date of accident, the police came to the scene of offence

and conducted the scene of offence panchnama and obtained his thumb impression on the panchnama. PW.5 is the Investigating Officer, who received the complaint from PW.1, registered the case in Cr.No.1 of 2005 under Sections 324 and 504 IPC, issued Ex.P.3 -FIR and recorded the statement of PW.1 and sent the injured to the hospital. Thereafter, he recorded the statements of other witnesses, conducted scene of offence panchnama and after completing the investigation filed the charge sheet into the Court. PW.6 is the doctor, stated that on 01.01.2005, on the requisition of the Station House Officer, Gopalpet, he examined PW 1 and found abrasion over back of left shoulder, and the injury is simple in nature and caused by blunt object and issued wound certificate.

13. The main contention of the learned counsel for the petitioner is that PW.1 in his evidence stated that he received injury on his right shoulder, whereas the medical evidence of PW.6 shows that PW.1 received abrasion over the back of left shoulder. Therefore, the petitioner is entitled for benefit of doubt.

14. On the other hand, learned Public Prosecutor stated that as per Ex.P.1, PW.1 gave a report stating that the accused attacked him with cart peg from back side. PW.1, in his 161 Cr.P.C. statement, also stated that he received injury to his left shoulder, which was corroborated by the evidence of the doctor. PW1 might have confused in stating whether he received the injury on his right or left shoulder, but in Ex.P1 what he stated is that the accused came from back side and attacked him with cart peg and abused him. The evidence of PWs 1 to 6 is consistent and corroborated with each other and the trial Court after considering the evidence of PWs 1 to 6 rightly convicted the accused for the offence punishable under Section 324 IPC and acquitted for the offence under Section 504 IPC and the findings of the trial Court as well as the appellate Court need no interference and revision case is liable to be dismissed.

15. Accordingly, the Criminal Revision Case is dismissed.
Miscellaneous petitions pending, if any, in this Criminal Revision
Case shall stand closed.

ANIS, J

Date:11.03.2015
PNV