

HON'BLE SMT JUSTICE ANIS
CRIMINAL REVISION CASE No. 479 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/accused challenging the judgment dated 08.01.2008, passed by the

Sessions Judge, Karimnagar in Criminal Appeal No.36 of 2007, whereunder and whereby the conviction and sentence passed against the revision petitioner herein for the offence punishable under Section 506 of the Indian Penal Code, 1860 (for short, 'IPC') vide the judgment dated 13.02.2007 in C.C.No.169 of 2006 by the Judicial Magistrate of I Class, Special Mobile, Karimnagar, was confirmed.

2. The revision petitioner herein is accused, whereas the respondent is the complainant in C.C.No.169 of 2006 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 case of the prosecution in brief is that PW1 owns a house bearing No.10-4-100/1 in Survey No.1327/1 to an extent of 242 Sq. yards in Vavilalapalli locality, Karimnagar. Having intended to sell her house to the accused, she entered into an agreement of sale for Rs.3,40,000/-. The accused agreed to purchase the house in the name of his wife Shyamadatha and paid an advance of Rs.5,000/-. The accused agreed to pay the balance amount within one month for registration, but the accused failed to pay the balance amount in time. PW1 having waited for long time, started constructing a compound wall to her house. While so, on 17.12.2004 at about 6.00 p.m., the accused along with PWs 2 and 3 came to her house to see the construction work. On seeing the compound wall was getting constructed, enraged and abused PW1 in filthy language and

threatened her to kill if she again came to that house. Then, PW1 gave a report to the police who in turn registered the same as a case in Crime No.391 of 2004 for the offence punishable under Sections 290 and 506 IPC. The Investigating Officer, after recording the statements of the witnesses and after completion of investigation, laid the Charge sheet into the Court.

4. The learned II Additional Judicial Magistrate of First Class took cognizance of the case and examined the accused for the offence punishable under Sections 290 and 506 IPC. During trial, on behalf of the prosecution, PWs.1 to 4 were examined and Exs.P.1 and P.2 were marked.

5. After closure of the prosecution evidence, the accused was examined under Section 313 Cr.P.C putting the incriminatory material deposed against him. The accused denied the same and reported no oral or documentary evidence on his behalf. After hearing the arguments and after perusing the evidence available on record, the learned Magistrate acquitted the accused for the offence punishable under Section 290 IPC, but convicted the accused for the offence punishable under Section 506 IPC and sentenced him to pay a fine of Rs.1000/-, in default to suffer Simple Imprisonment for five months.

6. Aggrieved by the conviction and sentence passed by the trial Court, the accused preferred Criminal Appeal No.36 of 2007 before the Sessions Judge, Karimnagar, wherein the appellate Court after considering the oral and documentary evidence and after hearing both the sides, dismissed the appeal by confirming the conviction and sentence passed by the trial Court.

7. Being aggrieved by the concurrent finding of both the Courts below, passed in Criminal Appeal No.36 of 2007 and C.C.No.169 of 2006, the accused preferred the present revision case.

8. The learned counsel appearing for the revision petitioner/accused argued that both the Courts below erred in convicting the petitioner for the offence punishable under Section 506 IPC; that PWs 1 to 3 in their evidence stated different abusive words allegedly spoken by the accused; that the criminal case is a counterblast to the civil suit filed by the wife of the accused for specific performance of contract; that there is no threat caused by the accused to PW1; that only to harass the accused the present criminal complaint was filed, in order to overcome the civil suit; that the evidence of PWs 2 and 3 is interested as PW3 is the sister and PW2 is friend of PW1, therefore the presence of PWs 2 and 3 at the time of incident is doubtful; that the prosecution failed to examine the independent witnesses to prove that the accused committed the offence punishable under Section 506 IPC and finally prayed the Court to allow the revision case by setting aside the judgment of the appellate Court.

9. On the other hand, the learned Public Prosecutor argued that the evidence of PWs 1 to 3 is consistent and after considering the evidence of PWs 1 to 3, the trial Court as well the appellate Court rightly convicted the accused for the offence punishable under Section 506 IPC and that finding needs no interference, and finally prayed the Court to dismiss the revision case.

10. Now, the point for determination is -

Whether the revision petitioner/accused is entitled to set aside the concurrent finding given by the trial Court as well as the appellate Court for the offence punishable under Section 506 IPC?

11. **Point:**

A perusal of the evidence of PWs 1 to 4 and considering the arguments of both the sides, it is evident that the trial Court as well

as the appellate Court scrutinized the evidence and gave a finding that the prosecution failed to prove the offence punishable under Section 290 IPC, but insofar as the conviction for the offence punishable under Section 506 IPC is concerned, both the Courts below held that the evidence of PWs 1 to 3 proved the charge under Section 506 IPC.

12. A perusal of Ex.P.1 shows that it was registered on 17.12.2004, but it was received by the Court on 20.12.2005. Mere failure on the part of the police in dispatching the FIR to the Court, will not suffer the prosecution case. The evidence of PW1 shows that after the incident she lodged a report promptly with the police and the same was registered by the police on 17.12.2004 itself. The prosecution witnesses also corroborated the evidence of PW1 regarding the accused threatened PW1 as “Inkoka sari ikkadiki raku, vasthe manchiga vundadu, vasthe ninnu emi cheyalo adi chestha”.

13. The main contention of the accused is that the present case is nothing but a counterblast for the civil suit filed by the wife of the accused for specific performance of an agreement of sale. There is no dispute that PW1 owning a house bearing No.10-4-100/1 in Survey No.1327/1 to an extent of

242 Sq. yards in Vavilalapalli locality of Karimnagar town and PW1 entered into an agreement of sale with the accused for Rs.3,40,000/- and the accused paid Rs.5,000/- as an advance. According to PW1, the accused failed to pay the balance amount and failed to obtain a registered Sale deed from PW1, and when she constructed the compound wall, the accused came and abused her in filthy language and threatened her with dire consequences. The evidence of PWs 1 to 3 clearly established that the accused abused PW1 in filthy language and threatened her to kill. Further, the evidence of PWs 1 to 3 is supported by the evidence of the Investigating Officer. Therefore, basing on the evidence of PWs 1 to 3, the trial Court as

well as the appellate Court rightly convicted the accused for the offence punishable under Section 506 IPC and the concurrent findings of both the Courts below need no interference of this Court.

14. Accordingly, the Criminal Revision Case is dismissed, confirming the judgment dated 08.01.2008, passed in Criminal Appeal No.36 of 2007 on the file of the Sessions Judge, Karimnagar.

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

ANIS, J

Date: 17.03.2015

Anr