

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

WEDNESDAY, THE TWENTY NINTH DAY OF JULY
TWO THOUSAND AND FIFTEEN

PRESENT
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL REVISION CASE No.586 of 2007

Between:

Posupalli Satheyya

..... PETITIONER

AND

Kovvuri Venkata Reddy and 2 others

.....RESPONDENTS

DATE OF JUDGMENT PRONOUNCED: **29.07.2015**

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

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| 1. | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. | Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3. | Whether Their Ladyship/Lordship wishes to see the fair copy of the Judgment? | Yes/No |

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL REVISION CASE No.586 of 2007

ORDER:

This Criminal Revision Case is directed against the judgment of acquittal of the learned Additional Sessions Judge-cum-Special Sessions Judge for trial of cases under the SCs and STs (Prevention of Atrocities) Act, 1989, East Godavari at Rajahmundry in SC ST SC No.6 of 2005, dated 08.12.2006.

2. Heard the learned counsel appearing for the petitioner/*de facto* complainant and the learned counsel, appearing for respondents 1 and 2/A1 & A2.

3. The case of the prosecution in brief is that PW 1 is the complainant and victim. It is alleged that on 28.03.2003 at about 6 a.m. when PW 1 was waiting at Komaripalem bus stand, A1 came there and dashed him with his scooter. PW 1 questioned A1, due to which, A1 grew wild and pushed down PW 1 and also abused him touching his caste. PW 3, who is also waiting for a bus at the said bus stand, came, intervened and separated PW 1 and A1. A1 while leaving the place threatened PW 1 with dire consequences. Some time thereafter, A1 along with his brother A2 came on scooter and attacked PW 1. When PW 2 tried to intervene, the accused did not stop. A1 abused PW 1 touching his caste, A2 picked out a knife from his waist and tried to hack PW 1 and when PW 1 warded off the blow, he sustained a bleeding injury on his left hand. A1 and A2 abused PW 1 and beat him indiscriminately. In the meantime, PW 4 intervened and saved PW 1 from the hands of the accused.

4. With the above allegations, PW 1 lodged a complaint against the accused before Biccavolu Police Station, and the same was registered as a case in Cr.No.13/2003 under sections 279, 324, 506 r/w. Section 34 IPC and under section 3(1)(x) of the SCs and STs (POA) Act.

The police after due investigation, filed final report stating that the complaint is false. Thereafter, the petitioner/*de facto* complainant filed protest petition and the same came to be registered as PRC No.26/2004 on the file of the Additional Judicial Magistrate of First Class, Ramachandrapuram.

5. After complying with the mandatory requirements, the case was committed to the Court of Sessions and the same was numbered as SC ST SC No.6/2005 on the file of the Additional Sessions Judge-cum-Special Sessions Judge for trial of cases under the SCs and STs (Prevention of Atrocities) Act, 1989, East Godavari at Rajahmundry.

6. Charges were framed against the accused. The accused denied the accusations. The prosecution, during course of trial, examined PWs 1 to 8 and marked Exs.P1 to P8. The accused denied the evidence on record. Ex.D1 is marked in defence.

7. After considering the oral and documentary evidence on record, by judgment dated 08.12.2006, the trial Court held that the prosecution could not prove the case against the accused beyond all reasonable doubt for the charges levelled against them, and therefore, acquitted the accused of the offence charged.

8. Aggrieved thereby, the petitioner/*de facto* complainant filed the present revision, contending that the learned Sessions Judge has not appreciated the evidence on record in proper perspective, and erroneously acquitted the accused and hence prays to set aside the judgment of the trial Court.

9. On the other hand, the learned counsel for the respondents Nos.1 & 2/A1 & A2 submits that the evidence of PWs 1 to 3 is full of inconsistencies and discrepancies, that absolutely there is no corroboration in the evidence of PWs 1 to 3, and that apart, the medical evidence did not corroborate the claim of PW 1. The learned counsel further submits that the police after due investigation found that the allegations made in the complaint are false and accordingly filed the final report. The learned counsel further submits that the trial Court after considering the evidence on record found that the accused are not guilty

for the charges levelled against them and accordingly, acquitted the accused, which does not warrant for any interference by this Court.

10. Now the point that arises for consideration in this revision is whether the judgment of the Court below suffers from any irregularity or illegality, warranting interference by this Court.

Point:

11. Admittedly, the incident is said to have taken place at 6 a.m. on 28.03.2003 and it is in two parts. Firstly, when PW 1 was waiting for a bus at the bus stand, A1 came on a scooter and dashed him and when PW 1 questioned, A1 abused him in the name of his caste. Thereafter, A1 brought his brother A2 and again attacked PW 1 and beat him indiscriminately and at that time PWs 2 and 3 rescued PW 1.

12. The evidence of PWs 1 to 3 is not consistent in so far as the incident proper is concerned. PW 3, as rightly held by the Court below, is a chance witness. The specific contention of the accused is that one K.Papa Reddy, who is having some enmity with the accused, got foisted the present complaint. It is admitted by PW 3 that in another case filed by K.Papa Reddy he gave evidence in support of the said K.Papa Reddy. The presence of PW 3 at the bus stand at the relevant point of time is not believed. Absolutely there are no disputes between the accused and

PW 1 and even there is no acquaintance between them. Even the evidence of PW 1 is not corroborated by the medical evidence.

13. It is the evidence of PW 1 that on 28.03.2003 when he was waiting at the bus stand at 6 a.m. A1 came and dashed him with his scooter and beat him. Within 5 minutes, A1 and A2 came to the scene and beat him and A2 has even attacked with a knife. PW 5, the Medical Officer, in his evidence deposed that he examined the injured on 28.03.2003 at 8.25 a.m i.e., within 2½ hours after the alleged incident. The Medical Officer found only a laceration on the left forearm and on backside of PW 1. He opined that the injury is simple in nature and could have been caused about 6 hours prior to his examination, which

means that PW 1 sustained the injury around 3 a.m in the morning hours, but not at about 6 a.m. as stated in the complaint. PW 5 Doctor stated in his cross examination that the injury is possible by rubbing with a rough surface. PW 5, the Doctor, admitted that if the injury is caused with a knife, it would be an incised injury, but not a lacerated injury. Basing on this evidence, it is submitted that it is a clear case of false implication taking advantage of a fall on the road in the early hours of 28.03.2003.

14. Even the other evidence that is produced by the prosecution does not corroborate the claim of PW 1. PW 2 is the younger brother of PW 1. PW 2 has put certain words, which are not spoken by PW 1. PW 3 is not stated to be the eyewitness. The learned trial Judge has appreciated the oral and documentary evidence on record in proper perspective and acquitted the accused.

15. Upon perusing the oral and documentary evidence on record, I do not find any grounds to take a different view other than the view taken by both the Court below, and hence the revision is liable to be dismissed.

16. Accordingly, the Criminal Revision Case is dismissed.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date: 29.07.2015

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