

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

Criminal Revision Case Nos.958 and 1080 of 2007

COMMON ORDER:-

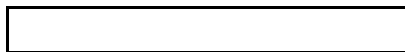
Crl.R.C.No.958 of 2007 is filed by A.1 to A.3, A.5, A.6, A.8, A.10, A.12, A.16 and A.17 and Crl.R.C.No.1080 of 2007 is filed by A.4 and A.7. Since both the revisions arise out of Judgment in Criminal Appeal No.52 of 2006, dated 12-07-2007, on the file of the VI-Additional District and Sessions Judge (FTC), Markapur, they are disposed of by this common order.

2. A.1 to A.17 were tried for the charges under Sections 148, 447, 427, 324, 326, 354 and 307 read with 149 I.P.C., in S.C.No.171 of 2005 by the Assistant Sessions Judge, Darsi, and the learned trial Judge found all the accused guilty of the offences punishable under Sections 147 and 447, 427, 325, 323, 354 read with 149 I.P.C., and convicted them to undergo - R.I. for six months and fine of Rs.1,000/- for the offence punishable under Section 147 I.P.C.; fine of Rs.500/- for the offence punishable under Section 447 read with 149 I.P.C.; R.I. for six months and fine of Rs.2,000/- for the offence punishable under Section 354 read with 149 I.P.C.; R.I. for nine months and fine of Rs.5,000/- for the offence punishable under Section 325 read with 149 I.P.C.; and R.I. for six months and fine of Rs.500/- for the offence punishable under Section 323 read with 149 I.P.C., with default clauses. The appellate Court acquitted all the accused for the offences punishable under Sections 447, 427, 354 read with 149 I.P.C., and also acquitted A.9, A.11, A.13, A.14 and 15 for the offence punishable under Section 147 I.P.C., but found guilty of A.1 to A.17 for the offences punishable under Sections 325 read with 149 I.P.C., and 323 read with 149 I.P.C., and 147 I.P.C., against A.1, A.2, A.4 to A.8, A.10, A.12, A.16 and A.17 and confirmed the sentence passed by the trial Court for the said charges.

3. The facts in brief are as under:-

PW.3 owned land to an extent of Ac.15-40 cents in S.C.No.1255-1 near Pothagvaram village and acquired patta in the year 1978 and since then the entire land is in possession and enjoyment of PW.3, who is a widow. PW.3 brought up PW.1, who is the daughter of her sister, and performed the marriage with PW.2 and transferred the entire land under registered sale deed in the name of PW.1 in the year 1998. During the year 2004, they raised red gram and sajja crops and the same was in sprout stage. All the accused were proclaiming that the said land is belonged to their ancestors and they used to graze the cattle in the land and they would occupy the same at any time. Accordingly, on 13-06-2004, all the accused i.e., A.1 to A.17 formed themselves into unlawful assembly and that A.4, A.7, A.11 and A.13 having dry chilly powder packets in their hands and the remaining accused having deadly weapons like axes, knives and sticks in their hands, criminally trespassed into the fields of PW.1 and ploughed the sprout crop to an extent of ½ acre and thereby caused mischief to a tune of Rs.1,000/-. When PWs.1 and 2 tried to obstruct the accused, they were beaten indiscriminately by the accused and A.4, A.7, A.11 and A.13 also sprinkled chilly powder. When PWs.3 and 4 tried to rescue PWs.1 and 2, they were also beaten by the accused. A.12 and A.14 pulled the saree of PW.5. A.4 and A.7 also sprinkled chilly powder on PW.4. PWs.5 and 6 shifted PWs.1 to 4 to the Police Station, where the statement of PW.1 was recorded. PWs.1 to 4 were shifted to the Government Hospital, from where PWs.1, 2 and 4 were shifted to Headquarters Hospital at Ongole for better treatment. The Investigating Officer – PW.12 took up the investigation, recorded the statements of the injured and witnesses, visited the scene of offence, drafted observation report, seized the material objects and after completion of the investigation, filed the charge-sheet in the Court of the Judicial Magistrate of First Class, Podili, where the cognizance was taken. After following the mandatory provisions, the case was committed to the Court of Sessions and was made over to the

Assistant Sessions Judge, Darsi, where during the course of trial, the four injured were examined as PWs.1 to 4 and the eye-witnesses to the incident were examined as PWs.5 and 6 and also examined a scene of offence panch witness as PW.7, the panch witnesses for seizure panchanama as PWs.8 and 9, Medical Officer as PW.11 and the Investigating Officers as PWs.10 and 12. Exs.P.1 to P.15 and M.Os.1 to 13 were marked. The accused were examined under Section 313 Cr.P.C., where they denied the evidence on record. In defence, except for marking Exs.D.1 to D.8, which are the contradictory portions in the statements of PWs.2, 3, 5 and 6, no other defence was produced. The trial Court, after considering the evidence on record, found the accused guilty of the charges and convicted and sentenced them as stated supra, and on appeal, the learned VI-Additional District and Sessions Judge, Markapur, found guilty of the accused of the charges punishable under Sections 325 read with 149 I.P.C., and 323 read with 149 I.P.C., and also found A.1 to A.8, A.10, A.12, A.16 and A.17 guilty of the offence punishable under Section 147 I.P.C., and accordingly acquitted for the remaining charges. Hence, the revision by A.1 to A.8, A.12, A.16 and A.17.



4. The contention of the learned Counsel appearing for the petitioners/accused is that both the Courts below erred in convicting the petitioners/accused of the offences alleged. The evidence of the injured witnesses is neither consistent nor cogent. There is no independent corroboration to the evidence of the injured witnesses. The medical evidence do not corroborate the claim of the 4 injured viz., PWs.1 to 4. There is abnormal delay of 24 hours in reaching the F.I.R., even though the Court of the jurisdictional Magistrate is just at a distance of about half-a-kilometre from Podili P.S. The complaint was lodged at 09.35 a.m., on 13-06-2004 and as per the endorsement of the Magistrate, the Express F.I.R., reached him at about 10.30 a.m., on 14-06-2004. Even though the injured witnesses claim that chilly

powder was sprinkled in their eyes, but the Medical Officer-PW.11 who treated the injured just within less than an hour of the incident, did not notice any such signs of chilly powder being sprayed. Admittedly, there are some civil and criminal cases in between the prosecution party and the accused. It is admitted that one of the accused filed O.S.No.5 of 2005 on the file of the Senior Civil Judge, Podili, in respect of the land over which the dispute took place. It is also submitted that in the complaint even though as many as 19 persons along with several others have been named, charge-sheet is filed only against A.1 to A.17. The appellate Court having acquitted all the accused of the charges punishable under Sections 147 read with 149, 354 read with 149, 447 and 427 I.P.C., ought not to have invoked Section 149 I.P.C., for convicting all the accused even though there are no specific overt acts against them. Learned Counsel further submits that the evidence on record do not show that there was any unlawful assembly and hence the appellate Court erred in invoking the same. It is further submitted that at the time when the incident took place, both PWs.5 and 6 were also there and PW.6 is the son of PW.4 and he was a man aged about 25 years. The claim of PW.6 that when the accused persons were assaulting his people, he escaped from there is difficult to be believed. Out of the four injured witnesses, three are ladies and when they were being assaulted, PWs.5 and 6, who are their near relatives, would not have run away. Learned Counsel further submits that both the Courts below erred in believing the evidence of PWs.1 to 4 and hence, the Judgments are liable to be set aside.

5. On the other hand, learned Public Prosecutor submits that the evidence of PWs.1 to 4 is cogent, convincing and consistent and the omissions and contradictions that are highlighted are too trivial in nature and they do not go to the root of the case. The conviction and sentence is based on proper appreciation of the evidence on record warranting no interference.

6. The point for consideration is as to whether the prosecution

could prove its case beyond reasonable doubt so as to sustain the conviction and sentence as imposed by both the Courts below or whether the Judgment rendered by the first appellate Court suffers from any material illegality or irregularity warranting interference by the revisional Court?

7. **Point:-** The injured – PWs.1 to 4 and the 17 accused, who are originally arrayed in the charge-sheet, are residents of the same village and they also belong to the same community. Out of the 17 accused charge-sheeted, A.5 is said to have died during the pendency of the revision. The learned Assistant Sessions Judge, who tried S.C.No.171 of 2005, by Judgment, dated 07-07-2006, has convicted all the accused and the maximum sentence that was inflicted was nine months rigorous imprisonment and a fine of Rs.5,000/- for the offence punishable under Sections 325 read with 149 I.P.C. For the other offences, sentence of less than nine months was imposed but they were directed to run concurrently. Learned appellate Court in Criminal Appeal No.52 of 2006, by Judgment, dated 12-07-2007, found guilty all the accused except A.9, A.11, A.13, A.14 and A.15. The convicted accused were found guilty of the charge punishable under Sections 325 r/w 149 and 323 r/w 149 I.P.C. All the accused were acquitted of all the charges other than Sections 325 and 323 r/w 149 I.P.C.

8. Aggrieved by the said convictions, the present two revisions are filed.

9. The dispute in between the accused party and the prosecution party is said to be in respect of an extent of Ac.15-40 cents of land in Sy.No.1255-1 near Pothavaram village. According to the prosecution, the patta in respect of this land was issued in favour of PW.3 in 1978. PW.3 had no children. Therefore, she adopted PW.1, who is the daughter of her sister. PW.3 performed the marriage of PW.1 with PW.2. Out of the said land, about Ac.3-00 of land was sold by PW.3. The remaining land was settled by PW.3 in favour of PW.1 in the year 1998. Ever since then it is PWs.1 to 4 who are cultivating the said land

by raising red-gram and sajja crops.

10. The contention of the accused is that from times immemorial, that land is being used by them and several villagers for the purpose of grazing their cattle. It is also admitted that in respect of the same land, one of the accused filed O.S.No.5 of 2005 and before that, the prosecution witnesses have filed caveat petitions in the Court. Therefore, both the parties were claiming to be in possession of the land in dispute on the date when the incident is alleged to have taken place namely 13-06-2004.

11. It is also pertinent to note that the Court below has disbelieved the case of the prosecution insofar as the offences punishable under Sections 447 and 427 I.P.C. are concerned. That means, the allegation that the accused persons have criminally trespassed into the land and committed the offence has not been established. As already stated, the petitioners/accused have been acquitted of the charges punishable under Sections 447 and 427 I.P.C. Therefore, there is no trespass over the land alleged to be in possession of the prosecution witnesses.

12. As already stated, the convicted accused have been convicted of the offence alleged with the help of Section 149 I.P.C. The petitioners contend that to the facts and circumstances of the case in hand, Section 149 I.P.C., is not applicable and if the prosecution could prove the specific overt acts, only such of the persons are liable to be convicted but not all the accused with the aid of Section 149 I.P.C. In support of this contention, learned Counsel relied upon a decision reported in **DERANGULA KONDAIAH v. STATE OF A.P.**^[1], wherein following decisions of the Supreme Court, this Court held as under in para 17:-

“It is crystal clear from the evidence of PW.4 that the deceased made preparations for constructing copying (chunchu) wall protruding on the site of A.1 to see his reaction. Thereupon, the accused came to the scene and questioned the deceased for his constructing the copying

(chunchu) wall protruding on the site of A.1. On thorough analysis of the evidence placed on record, the trial Court came to the conclusion that there was a free fight between the two groups. I have gone through the evidence of PW.4 to 8. In the circumstances, the only reasonable conclusion that can be drawn is that the fight took place without pre-meditation, the same can be said to be quite sudden one and by reason thereof no unlawful assembly can be said to have formed. It is well settled that in case of free fight each one is responsible for his own act and no other can be held responsible for the act of others by invoking the constructive liability. I am well supported by the decision of Apex Court in *Ram Swaroop V. State of Haryana* (1993 SCC Supp.(4) 344) on this aspect.”

13. There is no dispute about the legal proposition that a share in the common object of the unlawful assembly is sufficient to draw an accused into the ambit of Section 149 I.P.C. It sets out constructive liability and it makes liable every member of such assembly for the offence committed by another member or members of the assembly. It creates a vicarious liability on each member of the assembly for the acts of others. Common object which is material should be established which can even develop on the spot. Vicarious liability will arise only when it is proved that the members of unlawful assembly had certain knowledge as to what the other members are going to do in achieving the common object. Merely because the accused were armed would not be sufficient to prove common object in the absence of a finding as to what is the nature of the common object, this should be unlawful. The factor such as nature of assembly, nature of arms used, and behaviour of the members based on the material on record is what is required to be proved. The prosecution in order to succeed should prove that the accused is a member of unlawful assembly and that such an unlawful assembly committed the offence in prosecution of the common object of that assembly.

14. Upon carefully perusing the evidence on record and the Judgments of both the Courts below, what is noticed is that it cannot

be said that invoking Section 149 I.P.C., to the facts of the present case is justified. It is on record that both the parties were claiming the right of enjoying the vast extent of about Ac.15-00 of land, which according to the prosecution witnesses belongs to them and which according to the accused, they along with all the villagers had been using the said land for the purpose of grazing their cattle. No evidence, whatsoever, has been produced by the prosecution to show that it is the prosecution witnesses who had been in possession and enjoyment of the land in dispute and it is they who have raised any crop thereon. No revenue records have either been produced or perused by the Investigating Officers. When PW.1 has produced Ex.P.2, which is said to be the Adangal extract, on behalf of the accused, three documents are said to have been filed to show that they have given the patta in respect of the schedule land. However, these three documents, which were filed by the accused during their examination under Section 313 Cr.P.C., have not been made part of the record. Originally PW.3 claims to have been given patta in respect of an extent of Ac.15-40 cents of land, out of which, she sold Ac.3-00. The remaining Ac.12-00 is said to have been settled in favour of PW.1 under registered settlement deed. That document has not been filed. It is also noticed from the evidence that on the date of the incident, namely 13-06-2004, in the morning, when PWs.1, 2 and their son Brahma Reddy went to erect fencing around the land, the villagers numbering more than 100 including the 17 accused came there and with the help of the Yokes, which some of the accused were having, they were cultivating the land in one corner over an extent of Ac.0-50 cents. It is also on record that when this act of some of the accused in cultivating half acre of land out of nearly Ac.15-00 of land was objected to by PWs.1, 2 and their son, some of the accused alleged to have sprinkled chilly powder and assaulted them. In Ex.P.1 – complaint which is lodged within less than an hour after the incident, there is no mention whatsoever about any of the accused persons either carrying

chilly powder or spraying on them. In that incident, PWs.1 to 4 sustained injuries. According to the prosecution witnesses, the accused were armed with axes, sickles and knives. The injured are PWs.1, 2, 3 and 4. PW.1 sustained simple injuries and according to the Medical Officer-PW.11, those injuries are possible due to contact with rough surface or nail scratches. PW.3 had an abrasion on the forehead which could have been caused with the blunt object. PW.4 had two lacerated wounds, which could have been caused with blunt object. PW.2 sustained three injuries and out of them, two are lacerated and one is cut injury. According to the Medical Officer-PW.11, the injuries, that are found on the person of PW.2, could have been caused with blunt and sharp edged objects.

15. If the medical evidence on record is carefully perused, it is difficult to hold that it establishes that the assailants, numbering nearly about 100, have used the deadly weapons such as axes, sticks or knives, in attacking firstly PWs.1 and 2 and thereafter PWs.3 and 4. It is consistently spoken to by PWs.1 and 2 that on the date of the incident, at about 07.00 a.m., they went to the scene of offence along with their son Brahma Reddy and also PWs.3 and 4. The said Brahma Reddy has neither been examined as a witness nor he received any injuries. When both his mother and father were beaten, where was he is not explained.

16. As stated above, from the evidence of the prosecution witnesses, it cannot be held that it is the accused persons along with several others came on to the land with an intention to commit the offence. The villagers were claiming that the land belongs to them and was being used for grazing their cattle. When the villagers including the accused were doing certain operations in one corner of the land over an extent of about Ac.0-50 cents, it is the prosecution witnesses who are said to have gone there and objected to their acts. Thereafter, the assault is alleged to have taken place. Therefore, I do not find it proper to hold that invoking the provisions of Section 149 I.P.C., against all

the accused is based on proper appreciation of the material on record. However, if the prosecution could prove the individual overt acts only such of the persons against whom there is evidence can be found guilty for the respective overt acts but all the accused cannot be found guilty with the aid of Section 149 I.P.C.

17. What is now required to be seen is as to whether the evidence of the prosecution witnesses is cogent, consistent and reliable for holding that it is the accused who have committed the crime or whether the case is not proved beyond reasonable doubt so as to give the benefit thereof to the accused.

18. When there are long standing disputes between the two groups, more particularly, for the sake of certain land, and more than 100 villagers are pitched against the family of PW.3, the evidence of the prosecution witnesses in the absence of independent corroboration needs to be appreciated with utmost care and caution. In a case of this nature, the promptitude with which the complaint is lodged and the F.I.R., reaching the Court, plays an important role so as to rule out the possibility of there being any false implication as an afterthought by the prosecution party. In the instant case, the attack is said to have taken place before 09.00 a.m., on 13-06-2004. Within about an hour thereafter, PW.1 alone went to the Police Station and she said to have lodged the complaint-Ex.P.1. Ex.P.1 was drafted by the Head Constable-PW.10 and on that basis, the case in Cr.No.65 of 2004 was registered. The F.I.R., in the case, reached the jurisdictional Magistrate nearly 24 hours thereafter, even though the distance in between the Court and the Police Station is just about half-a-kilometre. This inordinate delay is not satisfactorily explained and it gives scope for suspecting the correctness and authenticity of the earliest information with specific overt acts against the accused.

19. It is no doubt true that the complaint is not expected to be an encyclopaedia of all the events, but at the same time, non-mention therein all the essential ingredients constituting offence, certainly

affects the credibility thereof. Ex.P.1 is the statement given by the victim-PW.1 at about 09.35 a.m., and it is recorded by PW.10 – the Head Constable. PW.10 in his cross-examination admits that in Ex.P.1 it is mentioned that A.1 hacked PW.2 with an axe, when he intervened, on the head, that A.10 hacked PW.2 with a Barukatti on forehead, that PW.2 received injuries at the hands of A.1 and A.10, that there is no reference in Ex.P.1 about A.2 and A.14 pulling the saree of PW.1, that in Ex.P.1 it is mentioned that PWs.3 and 4 came to the scene of offence after knowing about the attack on PWs.1 and 2, and that in Ex.P.1, there is no mention about the presence of the two eye-witnesses i.e., PWs.5 and 6. As against the above complaint, the statements of the injured witnesses were recorded nearly 12 days thereafter and they made considerable improvements attributing specific overt acts to several of the accused. In view of the existing hostilities, civil and criminal disputes between the two groups, the said aspects affect the credibility and trustworthiness of the witnesses.

20. In Ex.P.1, no specific overt acts are attributed against the accused insofar as the assault on PWs.3 and 4 is concerned. It is also not mentioned in Ex.P.1-complaint that it is A.2 and A.14 who have removed the saree of PW.1. As per the evidence of PW.1, at about 09.00 a.m., all the accused came to the fields with agricultural implements such as Yokes, crows, and were also armed with deadly weapons, such as axes, sticks, stones and chilly powder. With regard to the chilly powder, even though it is said to have been sprayed on the injured and fell in their eyes, the Medical Officer-PW.11 who treated the injured just within an hour after the incident, did not find any signs thereon. It is admitted by PW.1 that A.8 filed O.S.No.5 of 2005 in respect of the same land and she has also filed the written statement. According to PW.1, her statement was recorded by the police 12 days after the incident, which according to the Investigating Officer-PW.12 is not correct. In her previous statement before the police, PW.1 stated that A.1 to A.4 and several other villagers are claiming in the village

that they have rights over the land in dispute and that the accused used to graze their cattle. Even though PW.1 claims that they have raised red-gram and sajja crop, which was damaged by the accused, PW.1 admits that she did not state this material fact in her complaint-Ex.P.1. She also admits that it is herself and her husband-PW.2 who went near the scene of offence where it took place. She also admits that when they went near the accused, the accused were ploughing the land at some distance. It is in the evidence of PW.1 that even though she received bleeding injury on her head, she was not treated by the Doctor at Podili Hospital and she was not rendered any first-aid at Podili Government Hospital. This assertion of PW.1 is falsified by the evidence of the Doctor-PW.11, who says that PW.1 was treated at the hospital at about 10.30 a.m., on 13-06-2004. PW.1 denied the suggestion that as long back as in 1964, the Director of Settlement has granted patta in respect of the accused and their ancestors with regard to the land in question.

21. PW.2 is the husband of PW.1 and he is the person who sustained grievous injuries. He deposed that on the date of the incident, he along with PWs.1, 3 and 4 and their son were putting fencing, the accused came there and started destroying the crop. When he objected, he claims to have been beaten by A.1, A.2, A.3, A.6, A.10, and A.14. PW.2 further claims that in the said attack, he has lost 2 or 3 front teeth. The Medical Officer – PW.11 did not find any such loss of teeth when he examined PW.2 within an hour of the incident. In the cross-examination, he denied knowledge that he along with PW.1 and another are accused in a Sessions Case alleging that they made attempt on the life of one Subbaiah. PW.2 admits that there are no disputes between them and the accused but it is the accused who were claiming in the village that the land in dispute belongs to their ancestors. It is further claimed by PW.2 that along with the accused about 10 or 15 other villagers also were claiming that they have right over the property in dispute. According to him, about 60

persons including the accused came and attacked them. According to PW.1, it was more than 100 people. PW.2 claims that chilly powder was sprinkled on him from a distance of 10 feet and some chilly powder fell in his eyes. As already stated, the Medical Officer did not find any signs of chilly powder even though PW.2 was examined by the Doctor – PW.11 within an hour after the incident. Curiously, PW.2 stated that even though he lost two frontal teeth in the attack, the Doctor might not have noticed the same since that injury was simple. It is admitted by PW.2 that they filed a criminal case against one Chiddala Subba Rayudu, which is C.C.No.41 of 2005 and that the said Subba Rayudu also filed a criminal case against him.

22. PW.3 is the mother of PW.1. It is in her evidence that when herself along with PWs.1, 2 and 4 were putting fencing, the incident took place. She claims that she was beaten by A.16 with a stick on head, and A.13 with a stone on waist. She further claims that A.7 and A.11 also beat her with sticks on legs. In the cross-examination, she admitted that originally her father was cultivating the land in dispute without any patta and subsequently, patta was granted in her favour. No document is produced to prove this aspect. She claims acquaintance with Dornala Narsa Reddy and Chinnaiah but denies knowledge as to whether the Director of Settlement, Hyderabad, has granted a patta for the land in dispute in favour of the said people. She admits that they were putting fencing towards the eastern side of their land, near Godla Bata and at that time, number of villagers came there and the accused started ploughing the land on the western side over an extent of Ac.0-50 cents. This was objected to by herself and PW.2 and her grandsons (PWs.5 and 6) who were with them till then but ran away towards Godla Bata and came there only after the accused left the place. While she denies knowledge about the accused filed O.S.No.5 of 2005 against them, she however admits that they filed a caveat petition against the accused both in the Courts of Senior Civil Judge and Junior Civil Judge.

23. PW.4 is another injured witness and she deposed that on the date of the incident, the accused persons came on the land and started destroying the crop raised by them. She deposed that it is A.5 who beat her and it is A.14 who provoked other accused to beat them. In her cross-examination, she admits that she has Ac.4-00 of land which she gave on lease and she was doing coolie work in the land of PW.1. On the date of the incident, she went with PW.1 for doing coolie work. She, however, claims that when the crop was raised on the land of PW.1, she did not go there. She claims to have been sustained bleeding injury on head and having been beaten indiscriminately with stones, sticks and legs, due to which she became unconscious. The Medical Officer – PW.11 found two lacerated injuries on the scalp and elbow joint. She admits that PWs.1 to 3 are related to her.

24. The four injured witnesses are sought to be corroborated by PWs.5 and 6, but as already stated, PW.6 is none other than the son of PW.4. It is an admitted fact that even though these two persons are said to be present before the incident, they however ran away from there and came there only after the accused left. Therefore, they cannot be said to be the eye-witnesses to the incident. That apart, the name of PW.5 is not mentioned in the complaint as an eye-witness to the incident. PW.6 being the son of PW.4 cannot be believed when he says that he ran away from there when his mother was being beaten by the accused with deadly weapons. The evidence of PWs.5 and 6 has been disbelieved by the Courts below. It is admitted by them that when the accused were beating their people, they did not interfere. According to PW.6, about 25 persons came to the scene of offence whereas the other witnesses gave the number as 60 and more than 100 persons. According to PW.5, it is about 40 to 50 villagers who gathered there and out of them, about 15 to 20 persons were armed with sticks, axes, knives, stones etc.

25. As noticed from the above, the evidence of PWs.1 to 4 the injured witnesses is not corroborated by any independent witnesses. It

is further noticed that the evidence of PWs.1 to 4 is not consistent with their earlier statements. Even the medical evidence does not support the version of PWs.1 to 4. The following statement shows the material discrepancies in the allegations made in the charge-sheet/complaint-Ex.P.1 and what is spoken to by the witnesses and the medical evidence in that connection.

Allegations as per the charge-sheet/ complaint-Ex.P.1	As per the oral evidence	A s per the Medical evidence – PW.11
PW.1 A.17 beat with stone on head. Guntur Bangaru Reddy abused and removed her saree.	A.9 beat with a stick on back. A.2, A.14 and one G.Bangaru Reddy pulled saree and abused her A.17 beat with stone on head. A.8 beat with stick on left hand.	Multiple linear abrasion on both hands. Patient complains pain in the left knee joint. Injuries are simple in nature might have been caused due to contact with rough surface or nail scratches. Ex.P.11 is the Wound Certificate.
PW.2 A.10 hacked with a knife on forehead. A.1 hacked with axe on head.	A.3 beat with stone on left forehead. A.10 beat with hunting sickle on left forehead. A.1 and A.6 beat with an axe on head. A.14 beat with an axe on mouth, due to which he lost 2 or 3 teeth. A.2 beat with stone on nose.	Lacerated injury 3” x 2”, bone deep, cutting the bone on right forehead. Lacerated injury 2” x 1” and bone deep above the left eye brow on the forehead. Cut injury 2” x 1” bone deep on the right frontal parietal region. Pupils dilated not reacting to light. Injuries 1 and 2 - with blunt object and injury No.3 – with sharp edged object. Ex.P.9 is the Wound Certificate.

PW.3 In Ex.P.1 it is mentioned that when PW.3 came there, all the accused beat them. However, as per charge sheet – A.3 beat with stick on left side forehead. A.16 beat with stick on head. A.11 and A.13 beat with stick on waist and legs.	A.13 beat with a stone on waist. A.11 beat with stick on right leg. A.7 beat with stick on legs.	Abrasion on the middle of the forehead, just below the hair line. Injuries are simple in nature might have been caused with a blunt object. Ex.P.12 is the Wound Certificate.
PW.4 In Ex.P.1 it is mentioned that when PW.4 came there, all the accused beat them. However, as per charge sheet – A.5 hacked with axe on head. A.12 beat with stick on right shoulder and right thigh. A.15 beat with stick on back. A.4 and A.7 kicked with hands and legs.	A.5 beat with axe on head. A.2 beat with stick on right shoulder and right thigh. A.14 provoked the other accused to beat her. A.3 beat her with a stone on back. A.15 beat her with a stick on back. A.4 and A.7 sprinkled chilly powder and beat with hands and legs.	Lacerated wound 5" x 2", bone deep on the right frontal region of the scalp. Lacerated wound 3" x 1" bone deep on the right elbow joint. Swelling of the left shoulder joint. Complains of body pain. Injuries are simple in nature. Ex.P.10 is the Wound Certificate.

26. There are several omissions and contradictions in the evidence of PWs.1 to 4. They are marked as Exs.D.1 to D.8. These portions are relevant and they cannot be brushed aside as being simple and trivial.

27. It is admitted by the Investigating Officer-PW.12 that in the complaint-Ex.P.1 insofar as PW.2 is concerned, specific overt acts are attributed only to A.1 and A.10 and none other accused. According to PW.2, he was beaten by A.1, A.2, A.3, A.6, A.10 and A.14. Similarly, the Investigating Officer admits that as per Ex.P.1, the specific overt act is attributed only to A.17 insofar as PW.1 is concerned. According to PW.1, she was beaten by A.2, A.8, A.9, A.14 and A.17.

28. Upon carefully perusing the oral and medical evidence on record, it is found that the medical evidence do not corroborate the

claim of the injured witnesses. While PW.1 claims to have been beaten by A.8, A.9 and A.17 with stick and stones, the Medical Officer only found one abrasion. PW.2 claims to have been beaten with stone, hunting sickle and axe by A.1, A.2, A.3, A.6, A.10 and A.14, the Medical Officer only found three injuries.

29. PW.3 claimed to have been beaten with stone and stick by A.7, A.11 and A.13 on waist and both the legs, but the Medical Officer only found an abrasion on the forehead.

30. With regard to PW.4, she claims to have been beaten by A.2, A.3 and A.5 with axe and sticks on head, right shoulder, right thigh and back, the Medical Officer only found lacerated injuries on the scalp, right elbow joint and left shoulder. Except for PW.2, the injuries sustained by the other three injured witnesses are simple in nature.

31. In view of the foregoing discussion, it cannot be said that the prosecution has proved the case against the accused beyond reasonable doubt by placing cogent, convincing and consistent evidence. In view of the existing hostilities between the prosecution witnesses and the accused, the omissions, contradictions and exaggerations are vital and they raise a reasonable doubt about the claim made by the injured witnesses, but has already stated, are not supported by any independent evidence. The benefit thereof should invariably go to the accused and they are accordingly entitled to an acquittal. Both the Courts below have not appreciated the evidence on record in proper perspective and erroneously held the petitioners guilty of the offences as stated above. The Judgments are liable to be set aside. The point is accordingly answered.

32. In the result, both the Criminal Revision Cases are allowed acquitting the petitioners/accused of all the charges. The bail bonds executed by the petitioners/accused shall stand cancelled. The fine amount, if any, paid by them shall be refunded.

The miscellaneous petitions, if any, pending in these revisions shall stand closed.

October, 2015

smr

[\[1\]](#) 2007 (1) ALT (CrI.) 263 (AP)