

**THE HONOURABLE SRI JUSTICE RAJA ELANGO**

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**CRIMINAL REVISION CASE No.207 of 2014**

**ORDER:**

This criminal revision case is preferred by the petitioner – accused by invoking the provisions under Sections 397 & 401 of the Code of Criminal Procedure being aggrieved by the judgment, dated 04.02.2014, rendered in CrI.A. No.408 of 2012, by the III Additional District & Sessions Judge, East Godavari, Kakinada, whereby and whereunder the learned Sessions Judge confirmed the judgment, dated 16.10.2012, passed in S.C. No.99 of 2012, by the II Additional Sessions Judge, Kakinada, East Godavari District.

The case of the prosecution, in brief, is that the petitioner is a worker in a finance company. While working in that company, he took a loan of Rs.3,00,000/- from the said company with an agreement to repay the same with interest, but he failed to repay the same and absconded. The owner of the said company instructed another employee, who is de facto complainant, to contact the petitioner. While the de facto complainant went to Balajicehruvu center for collection, along with another employee, they found the petitioner there and when they tried to contact him, he went away on his scooter. The de facto complainant and the other person followed him and when the petitioner reached in front of the house of one Devarakonda Venkateswara Rao, he stopped his vehicle. On seeing him the de facto complainant and the other person also stopped their vehicle and suddenly, the petitioner picked up a knife from the underneath of the seat of his vehicle and stabbed the de facto complainant on his forearm and caused bleeding injury. When the accused tried to attack the other person also, they escaped from that place and thereafter, the de facto complainant was admitted in a hospital.

On the intimation given by the hospital authorities, a case in Crime No.14 of 2011 was registered and the Sub-Inspector of Police took up investigation. After completion of investigation, the police filed charge sheet before the Court and the learned III Additional Judicial Magistrate of First Class, Kakinada took cognizance of the case for the offence under Section 307 IPC. After completion of procedure contemplated under Sections 207 & 209 Cr.P.C., the matter has been committed to

the Court of the Sessions under PRC No.20 of 2011 as the offence is exclusively triable by the Court of Sessions. The learned Principal District Judge, East Godavari, Rajahmundry, after numbering the case as S.C. No.99 of 2012, made over the same to the II Additional Assistant Sessions Judge, Kakinada, for disposal of the case in accordance with law. On appearance of the petitioner before the Court, the charge under Section 307 IPC was framed, read over and explained to the petitioner, for which, he pleaded not guilty and claimed for trial.

To substantiate its case, the prosecution got examined P.Ws.1 to 12 and marked Exs.P-1 to P-9 and MOs. 1 to 3. On behalf of defence, no oral evidence was adduced, but Exs.D1 and D2 were marked. After appreciating the oral and documentary evidence available on record, the learned trial Judge found the petitioner – accused not guilty of the offence under Section 307 IPC and acquitted him for the said offence. However, the learned trial Judge found the petitioner guilty of the offence under Section 334 IPC and accordingly, convicted and sentenced him to suffer simple imprisonment for a period of one month for the said offence, through judgment, dated 16.10.2012. Aggrieved over the same, the petitioner preferred CrI.A. No.408 of 2012. The learned appellate Judge also confirmed the conviction and sentence imposed against the petitioner, by the trial Judge. Challenging the same, the present revision is filed.

Heard the learned counsel for the petitioner and the learned Public Prosecutor and perused the material available on record.

After arguing for some time, the learned counsel for the petitioner, while not pressing for the main prayer, confined his arguments only to the extent of quantum of sentence imposed against the petitioner. Therefore, considering the submission of the learned counsel for the petitioner, this Court is of the view that the sentence imposed by the trial Court against the petitioner – accused can be reduced to the period already undergone by the petitioner.

In the result, the conviction recorded against the petitioner – accused by the Court of

the II Additional Assistant Sessions Judge, Kakinada, in S.C. No.99 of 2012, vide Judgment, dated 16.10.2012, for the offence under Section 334 IPC, as confirmed by the III Additional District & Sessions Judge, East Godavari District at Kakinada, in Crl.A. No.408 of 2012 vide judgment, dated 04.02.2014, is hereby confirmed. However, the sentence of imprisonment imposed by the trial Court, as confirmed by the appellate Court is modified to that of the period, which the petitioner has already undergone.

The Criminal Revision Case is, accordingly, allowed in part. Consequently, the Miscellaneous Petitions pending, if any, shall stand closed.

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**RAJA ELANGO, J**

**November 07, 2015.**

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