

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

CRIMINAL REVISION CASE No.798 of 2007

JUDGMENT:

This criminal revision case is filed by the accused questioning the judgment dt. 20.06.2007 in CrI.A.No.100/2006 on the file of II Additional Sessions Judge, Nalgonda at Suryapet.

2. The petitioners/A1 to A4 were tried in C.C.No.89 of 2004 on the file of the Judicial First Class Magistrate, Suryapet for the offence punishable under Sec.332 IPC. The learned Magistrate found the accused guilty and sentenced them to undergo rigorous imprisonment for a period of six months and pay fine of Rs.3,000/- each, with a default clause. Aggrieved by that, the petitioners herein preferred an appeal before the learned Sessions Judge, and the learned Sessions Judge confirmed the conviction and sentence of imprisonment imposed. Hence, the present revision by the unsuccessful accused.

3. The case of the prosecution is that on 21.01.2004 at about 4.00 p.m. while PWs.1 and 2 were on duty at Musi Canal, and conducting repair work of LF.I Section Canal, near D-14, Chain-98 situated within the limits of Raingudem village, the accused went to them in a drunken condition, caught hold of the shirt of PW-2 and discriminately beat both PWs.1 and 2 with hands and legs, causing obstruction to their duties, on the ground that they stopped the flow of water from the canal to their fields. In the process PWs.1 and 2 sustained simple injuries. The matter was informed to their superior Officer, PW-5 and a complaint was lodged with

the police. The incident said to have been witnessed by PWs.3 and 4. The Medical Officer, who examined and treated the witnesses, is examined as PW-7. The Head Constable, who registered the case, is examined as PW-6.

4. The contention of the petitioners/accused is that excepting the evidence of PWs.1 and 2, who are the alleged victims, there is absolutely no corroborative evidence and both the Courts have erred in believing the evidence of PWs.1 and 2 and convicting the petitioners/accused, who are poor agriculturists. It is further submitted that even if the evidence of PWs.1 and 2 is accepted, the sentence imposed by the Courts below is disproportionate to the alleged offence. The learned counsel further submits that a small incident was taken place when the PWs.1 and 2 were trying to prevent the water flow from the canal to the agricultural fields of the petitioners/accused. Therefore, the sentence of imprisonment imposed may be set aside or reduced.

5. Heard both the learned counsel and considered the material on record.

6. The independent witnesses, namely PWs.3 and 4 have turned hostile and denied having seen any incident. Therefore, the case of the prosecution solely rests on the evidence of the injured witness PWs.1 and 2 and the medical evidence. Both the injured witnesses have constantly deposed about the incident that took place by deposing that when they were attending repairs to the canal, the accused came there in a drunken condition, pushed them away and obstructed them from discharging their duties, and in that process PW-1 sustained injury on his right wrist and PW-2 received injuries on his head and on the upper lip. The Medical

Officer-PW-7, who examined PWs.1 and 2, deposed that he examined and found a contusion of 2x2 cms., over the right wrist of PW-1; and a contusion of 3x3 cms. over the left clavicle region, and issued Exs.P.5 and P.6, and certified that both of the injuries are simple in nature. The evidence of PWs.1 and 2, though they are interested in as much as they are injured, but the same is consistent and cogent. They have no axe to grind against the petitioners/accused, who are admittedly, the agriculturists. In that view of the matter both the Courts below have properly appreciated the evidence on record of Pws.1 and 2, which is corroborated by the evidence of the Medical Officer, PW.7, and found the accused guilty.

7. The learned counsel for the petitioners/accused submits that the petitioners are poor agriculturists, and the incident, if any, took place only because of the prevention of the water flow to their fields, thereby affecting their livelihood. Hence, the sentence of imprisonment may be reduced.

8. Considering the facts and circumstances of the case, especially the circumstances under which the incident took place at the agricultural fields, I feel that the sentence of imprisonment imposed by the Courts below is disproportionate to the alleged crime. Therefore, the sentence of imprisonment needs to be modified, while confirming the conviction of the petitioners/accused.

9. In the result, the revision case is dismissed, confirming the conviction of the petitioners/accused for the offence under Sec.332 IPC. However, the sentence of imprisonment is modified and restricted to the period already undergone by the

petitioners/accused. However, the petitioners/accused are imposed and directed to pay a fine of Rs.5,000/- each, in addition to the fine amount already paid by them. In default of payment of fine now imposed, the petitioners/accused are directed to undergo simple imprisonment for a period of three months.

Consequently, pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date: 08.09.2015
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THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

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