

THE HON'BLE SRI JUSTICE RAJA ELANGO
CRIMINAL APPEAL Nos.632 AND 649 OF 2004

COMMON JUDGMENT:

Both the Criminal Appeals are filed by the State challenging the Judgment, dated 18.09.2003, passed in Criminal Appeal No.6 of 2002 by the Court of the Principal Sessions Judge, at Nalgonda, and as such, both the criminal appeals are being disposed of by this common order.

The Criminal Appeal No.632 of 2004 is filed by the State against the Judgment, dated 18.09.2003, passed in Criminal Appeal No.6 of 2002 by the Court of the Principal Sessions Judge, at Nalgonda, insofar as modification of the conviction into one under Section 326 IPC from Section 307 IPC read with Section 34 IPC and the reduction of sentence of rigorous imprisonment for a period of two years from five years as against A.2 is concerned. The Criminal Appeal No.649 of 2004 is filed by the State against the same Judgment insofar as allowing the appeal by setting aside the conviction and sentence imposed against A.1, A.3 and A.4 by the trial Court for the offence under Section 307 IPC read with Section 34 IPC and sentence of rigorous imprisonment for a period of five years.

The brief facts of the case is as follows. P.Ws.1 and 8 are sons of P.W.2, who is the second wife of one late Lingaiah. P.W.3 is the son-in-law of P.W.2. One Lingamma was the first wife of late Lingaiah. All the accused are the agnates of P.Ws.1, 2 and 8. The said Lingamma died on 31.10.1999. On a petty quarrel with regard to cutting of a tree, on the afternoon of 01.11.1999, all the accused came to the house of P.W.2. At that time, A.2 armed with a knife while A.1, A.3 and A.4 armed with sticks. Immediately, after reaching the house of P.W.2, A.2 hacked P.W.8 on his head with the knife while A.1, A.3 and A.4 beat him with sticks. When P.W.2 intervened, she was pushed aside and her left arm was twisted by

A.5. On the complaint given by P.W.1, a case was registered for the offence under Section 307 IPC read with 34 IPC and investigated into the case. After completion of the investigating, a charge sheet was filed.

This Court perused the records and heard the arguments.

Before the trial Court, on behalf of prosecution, P.Ws.1 to 12 were examined and Exs.P.1 to P.16 were marked besides M.Os.1 to 4. Exs.D.1 to D.5 were marked on behalf of the accused.

The trial Court after examining the witnesses and hearing both sides, convicted A.1 to A.4 for the offence under Section 307 IPC read with 34 IPC and sentenced them to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.500/- (Rupees five hundred only) each, in default to suffer simple imprisonment for one month. Aggrieved over the same, A.1 to A.4 carried the matter to the lower appellate Court, wherein A.1, A.3 and A.4 were acquitted and as against A.2, the conviction was modified to the one under Section 326 IPC from 307 IPC read with 34 IPC and sentence of rigorous imprisonment is reduced to two years from five years, without interfering the fine and default clause.

This Court is of the view that in view of the dismissal of the criminal revision case, being Crl.R.C.No.1452 of 2003, by order dated 08.07.2007, filed by A.2 challenging the conviction and sentence imposed against him by the trial Court, which is modified by the lower appellate Court, this Court is not inclined to interfere with the order passed by this Court and hence, the Criminal Appeal No.632 of 2004 is hereby dismissed.

Insofar as the Criminal Appeal No.649 of 2004 is concerned, the lower appellate Court held that the version of P.Ws.1, 2, 3 and 8 that A.1, A.3 and A.4 beat P.W.8 with sticks on his head cannot be accepted as this is not supported by medical evidence and it is not the case of P.Ws.1, 2, 3

and 8 that A.1, A.3 and A.4 beat P.W.8 with sticks on any other parts of his body. This Court is of the view that the lower appellate Court considered the entire evidence in proper perspective and the reasons recorded by the lower appellate Court are in accordance with law. Hence, this Court is not inclined to interfere with the well considered Judgment of the lower appellate Court.

The Criminal Appeals are accordingly dismissed. Miscellaneous applications, if any pending in these appeals, shall stand dismissed.

JUSTICE RAJA ELANGO

07.12.2015
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