

**HON'BLE SMT JUSTICE ANIS**  
**CRIMINAL REVISION CASE No.747 OF 2007**

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**ORDER:**

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This Criminal Revision Case under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C') is filed by the revision petitioner herein challenging the judgment dated 24.04.2007, passed by the I Additional Sessions Judge, Khammam, whereunder and whereby the conviction and sentence passed against the revision petitioner herein for the offence punishable under Section 325 r/w 34 IPC, vide the judgment dated 24.03.2006 in C.C.No.264 2005 by the Additional Judicial Magistrate of First Class, Kothagudem, Camp at Bhadrachalam, was confirmed.

2. The revision petitioner herein is the accused and respondent herein is the complainant in C.C.No.264 of 2005 before the trial Court. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed in the C.C. before the trial Court.

3. The brief facts of the case are that on 23.06.2001 when PWs 1 and 2 were present in their fields in the evening time A.1 attacked the *de facto* complainant with an axe and caused injuries on her nose and A.2 attacked her with a stone and thus they caused grievous injuries. On the report given by PW.1, police registered the case in Cr.No.30 of 2001 for the offence under Section 325 r/w 34 IPC and send the injured to the hospital and conducted the investigation. During the course of investigation, the Investigating Officer recovered the weapon i.e. an axe under the cover of panchanama and recorded the confession of the accused and after receiving wound certificate and after completing the investigation the charge sheet has been filed under Section 325 r/w 34 IPC.

4. The learned Additional Judicial Magistrate of First Class,

Kothagudem, Camp at Bhadrachalam, took cognizance of the case and framed a charge for the offence punishable under Section 325 r/w 34 IPC against the accused. During trial, to prove the case of prosecution, PWs.1 to 9 were examined and Exs.P1 to P6 were got marked.

5. After closure of the prosecution evidence, accused were examined under Section 342 Cr.P.C putting all incriminating material available against them. Accused denied the material evidence and reported no oral or documentary evidence on their behalf.

6. The trial Court, after hearing the arguments and after perusing the record, convicted the accused Nos.1 and 2 for the offence punishable under Section 325 r/w 34 IPC and sentenced them to undergo Rigorous Imprisonment for a period of three months each and to pay a fine of Rs.1,000/- each, and in default of payment to undergo Simple Imprisonment for a period of one month.

7. Aggrieved by the conviction and sentence passed by the trial Court, accused Nos.1 and 2 preferred Criminal Appeal No.25 of 2006 before the I Additional Sessions Judge, at Khammam, where the Appellate Court after considering the evidence on record confirmed the conviction and sentence and dismissed the appeal against A.1 and allowed the appeal of A.2 and set aside the conviction and sentence passed against him.

8. Being aggrieved by the judgment of the Appellate Court passed in Criminal Appeal No.25 of 2006, the accused No.1 preferred the present revision case.

9. Learned counsel appearing for the revision petitioner/ accused argued that the evidence of the doctor was not considered properly who clearly stated in his evidence that PW.1 could have received the injury. It is possible for him to receive the injury due to

fall on the flat ground. Further too contradictions in the evidence of the prosecution witnesses. As such, the petitioner is entitled for acquittal and it is also argued that petitioner was already undergone 59 days period in jail. Therefore, that period may be given set off.

10. On the other hand, the learned Public Prosecutor appearing for the State argued that A.1 caused the grievous injury to the *de facto* complainant by using an axe and appellate Court rightly confirmed the judgment of the trial Court and findings of the appellate Court needs no interference.

11. Now, the point for determination is --

Whether the prosecution could bring home the guilt of the accused for the offence punishable under Section 325 r/w IPC, with which he is charged?

12. **POINT:**

A perusal of the record shows that the prosecution examined the *de facto* complainant as PW.1 and also got examined eight witnesses as PWs.2 to 9 and got marked six documents. As per Ex.P.6 wound certificate it shows that PW.1 received grievous injury and trial Court after considering the evidence of PWs.1 to 9 convicted the accused and clearly held that there are no material contradictions found in the evidence of the witnesses. The appellate Court also gave a finding that petitioner/A.1 attacked the *de facto* complainant with an axe and caused grievous injuries and the said evidence of the *de facto* complainant is supported by the evidence of PW.9 doctor who treated her in the hospital and issued wound certificate Ex.P.6. Therefore, the prosecution proved the case against the petitioner beyond reasonable doubt and findings of both Courts needs no interference. But the learned counsel for the petitioner prayed the Court to set off the period of 59 days already undergone by the petitioner for the offence for which the petitioner was convicted.

Considering the facts and circumstances of the case, I am of the view that a lenient view shall be taken in favour of the revision petitioner by reducing the sentence of imprisonment to two months from three months. Therefore, I am inclined to dispose of the revision as under.

13. The conviction recorded against the revision petitioner/A.1 by the Additional Judicial Magistrate of I Class, Kothagudem, (Camp at Bhadrachalam) in C.C.No.264 of 2005 as confirmed by I Additional Sessions Judge, Khammam in CrI.A.No.25 of 2006 is hereby confirmed. But, the sentence of imprisonment of three months Rigorous Imprisonment imposed by the trial Court is hereby modified and reduced to two months. The sentence of fine is not interfered with. The period of imprisonment already suffered by the revision petitioner/A.1 is directed to be given set off.

14. Accordingly, the Criminal Revision Case is disposed of.

15. Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.

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**ANIS, J**

Date:10.02.2015  
PNV

