

THE HON'BLE SMT. JUSTICE ANIS

CRIMINAL REVISION CASE No.235 OF 2007

ORDER:

This revision is filed by the petitioner under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.') against the Judgment dated 02.11.2006 passed in C.C. No.222 of 2006 by the

II Additional Judicial Magistrate of First Class, Ongole, wherein the learned Magistrate acquitted the accused for the offences punishable under Sections 324 and 506 of the Indian Penal Code, 1860 (for short, 'IPC').

02. The petitioner is the *de facto* complainant and respondents 2 and 3 are the accused in C.C. No.222 of 2006. The parties will hereinafter be referred to as arrayed before the Court below for the sake of convenience.

03. The case of the prosecution is that the *de facto* complainant owns Ac.0.58 ½ cents of house site near Hill Colony, Ongole and he constructed a house in some extent of the site. The accused are residing on the northern side of the house of P.W.1, which was constructed in the encroached site of P.W.1 by one Kasukurthy Sriramulu, who obtained house site patta in the name of his wife. On this regard, there are disputes between P.W.1 and the said Sriramulu and the civil proceedings are also pending between them. In the year 1993, the said Sriramulu obtained patta for Ac.0.08 ½ cents in the same survey number and got removed the fencing made by P.W.1 with the help of A1 and encroached some other

extent of land of P.W.1. On the representation of P.W.1, the revenue authorities measured the site and confirmed that the encroached portion belonged to P.W.1 and nobody has right in the said site. On 18.02.2006 P.W.1 engaged coolies to clean and level his own site. At about 2.30 P.M. on that day the accused picked up a quarrel with the coolies, abused them indecently and obstructed them. When P.W.1 questioned the accused about their acts, A.1 pelted a stone on P.W.1 and caused bleeding injury on his head. A.2 beat P.W.1 with a stick on his right hand and caused injury. The Medical Officer, who examined P.W.1, opined that the injuries sustained by P.W.1 are simple in nature. On receipt of the complaint, a case in Crime No.49 of 2006 was registered for the offences punishable under Sections 324 and 506 IPC.

04. Charges were framed and read over to the accused in telugu, but they pleaded not guilty. During the course of trial, on behalf of the prosecution P.Ws.1 to 8 were examined and Exs.P.1 to P.6 were marked. On behalf of the accused, A.2 herself was examined as D.W.1 and got marked Exs.D.1 to D.4 documents.

05. After considering the oral and documentary evidence, the trial court found the accused not guilty for the offences punishable under Sections 324 and 506 IPC and acquitted them. Aggrieved thereby, the *de facto* complainant preferred the present revision.

06. Heard learned counsel for the petitioner and learned counsel for the respondents.

07. Learned counsel for the revision petitioner/ *de facto*

complainant submits that the trial court has not considered the evidence on record; that the trial court also failed to see that the accused caused injuries to P.W.1; that the evidence of P.Ws.1 to 3 is sufficient to prove the Charges levelled against the accused beyond reasonable doubt; the trial court failed to consider these aspects and acquitted the accused; and therefore the judgment of the trial court needs interference and prayed to set aside the acquittal judgment dated 02.11.2006 passed in C.C. No.222 of 2006 by the learned II Additional Judicial Magistrate of First Class, Ongole.

08. Learned counsel for the respondents/ accused contended that the evidence adduced by the prosecution failed to establish the guilt of the accused on the ground that there are several disputes between the owner of the land and the *de facto* complainant and on that day an altercation took place between P.Ws.1 and 2 and the accused, and in that altercation, the accused also received injuries, in this connection the accused also lodged a report before the police, but police failed to register the case in view of the influence of P.W.1, who is a retired military officer; that the accused, who received injuries, were treated by the Doctor at a later point of time and the trial court after considering the evidence on record held that the case of the prosecution creates suspicion as the evidence of P.Ws.1 to 3 is an interested testimony and P.Ws.4 and 5, independent witnesses, clearly stated on the date of incident P.Ws.1 and 2 and the accused hurled stones against each other and that A.2 also sustained injuries.

Basing on the evidence, the trial court held that the

respondents/ accused are entitled for the benefit of doubt and accordingly acquitted; that therefore, he prays to dismiss the revision.

09. Upon hearing the argument of the learned counsel of both the parties, the point that arise for consideration is, whether the judgment dated 02.11.2006 passed in C.C. 222 of 2006 by the II Additional Judicial Magistrate of First Class, Ongole, is sustainable?

POINT:

10. On perusal of the evidence shows that there is a civil dispute between the de facto complainant and one Kasukurthy Sriramulu and civil proceedings are also pending thereof. As per the evidence of P.W.1, on the date of incident on hearing a big sound from the open place, he went there and found A.1 was beating one of his workers; then he interfered and questioned A.1, but A.1 hurled big stones against him, due to which he sustained bleeding injury. A.2 also came there and beat him with a stick, as a result he sustained injuries on his both hands.

11. P.W.2, who is wife of P.W.1, stated that on 18.02.2006 at 1.00 P.M. she came to the house for lunch and when she was about to go to the office at about 2.00 p.m. she noticed that there was altercation between A.1 and the coolies and when her husband tried to interfere, A.1 hurled bricks, due to which he received injuries, and A.2 also beat P.W.1 with stick on his chest. The trial court, after going into the merits of the case, held that with regard to the manner of the incident,

there is discrepancy in the evidence of P.Ws.1 and 2 and after perusal of the evidence of P.Ws.4 and 5, who are the independent witnesses and direct witnesses to the occurrence, in their cross-examination they have stated that the accused and P.W.1 hurled stones against each other and A.2 also sustained injuries in that incident. If the evidence of P.W.8, Medical Officer is perused, it shows P.W.1 received simple injuries and in his cross-examination he admitted that A.2 was also examined by him and he also received simple injuries. The evidence of A.2, who examined as D.W.1, she stated that P.W.1 hurled brick stones on her head resulting of which she received injury to her right little finger and this galata was witnessed by P.Ws.4 and 5. Admittedly, A.2 gave a report to the police about the incident prior to Ex.P.1. Investigating Officer has not given any explanation as to what happened to the report given by A.2. The trial court rightly observed that Investigation Officer has not filed either charge sheet or final report on the complaint given by A.2 and even no explanation was offered in that regard the trial court after considering the evidence on record, rightly acquitted the accused for the charges levelled against the accused for the offence punishable under Sections 324 and 506 IPC. The finding of the trial court needs no interference and the revision is liable to be dismissed.

12. Accordingly the revision is dismissed.

13. Miscellaneous petitions, if any, pending in this revision shall stand closed.

ANIS, J

February 23, 2015

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