

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

Criminal Revision Case No.414 of 2013

ORDER:-

The revision is directed against the Judgment in Criminal Appeal No.543 of 2011, dated 23-11-2012, on the file of the IV-Additional Sessions Judge, East Godavari District at Kakinada, by and under which, the Judgment of the learned Additional Judicial Magistrate of First Class, Peddapuram, in C.C.No.335 of 2010, dated 23-11-2011 was confirmed. The learned Magistrate found the petitioner/accused guilty of the charges punishable under Sections 447 and 506 I.P.C., and sentenced her to pay a fine of Rs.500/- and Rs.1,000/- respectively with a default sentence.

2. The facts are as under:-

PW.1 is the *de facto* complainant and is an Advocate practicing at Peddapuram Courts. The accused and her brothers had six commercial mulgies in the main bazaar, Peddapuram and they were let out to six different tenants. The petitioner/accused directed the tenants to enhance the rent from Rs.4,000/- to Rs.6,000/- per each mulgi. The request of the tenants to scale down the enhancement was refused. The tenants approached PW.1 and through him a suit was filed and an injunction order was obtained by the tenants against the petitioner/accused. It is alleged that on 05-05-2010 at about 03.00 p.m., when PW.1 was in his house, the accused went to his house, trespassed into the same, knocked the doors with force, by that time the accused was holding a knife in her hand, PW.1 got frightened and called the neighbours over phone, that the accused left the place after threatening PW.1 saying that she will kill him for having filed the case against her, that PW.1 went to the Bar Association and after having discussed the matter, filed the complaint at about 08.00 p.m.

3. Investigation was taken up, statements were recorded and after collecting the material, the charge sheet was filed and the Judicial Magistrate of First Class after recording the evidence of PWs.1 to 6 and marking Exs.P.1 to P.3 and after having heard the arguments of both

sides found the petitioner/accused guilty of the offences and sentenced her as stated supra. The appeal preferred by her was dismissed. Hence, the revision.

4. The contention of the petitioner/accused is that the *de facto* complainant has filed a false complaint against the accused due to disputes in between the *de facto* complainant and the father of the accused. It is further submitted that the tenants got foisted this false complaint so as to force the petitioner/accused to agree to the terms of the tenants. The evidence that is placed on record does not establish the offences alleged and that both the Courts below have erred in holding that the petitioner/accused has committed the offences and sentencing her to pay the fine.

5. On the other hand, learned Public Prosecutor submits that the petitioner/accused has high-handedly trespassed into the house of PW.1, who was an Advocate, and threatened him with dire consequences for having filed a suit against her on behalf of the tenants and the incident was witnessed by the neighbouring people and the evidence on record clinchingly establishes the offences alleged and hence both the Courts below have rightly held the case of the prosecution has proved. Therefore, there are no merits in the revision and the same is liable to be dismissed.

6. The admitted facts are that PW.1 is an Advocate and he filed a suit on behalf of the tenants of the petitioner/accused. On 05-05-2010 it is alleged that at about 03.00 p.m., when PW.1 was in his house, the accused went there, gate crashed into the house, knocked the door, at that time she was holding a knife in her hand and had threatened PW.1 with dire consequences.

7. PW.1 in his evidence has spoken to the above facts and it is also in his evidence that after the incident, he came to the Bar Association and discussed with the other Advocates and about 40 Advocates went to DSP Office and informed about the incident and thereafter, the complaint was filed. PW.2 is the immediate neighbour of PW.1 and it is the specific case of PW.1 that over telephone he called PW.2 when the petitioner/accused

was standing in front of the door by threatening him. PW.2 deposed that on receiving telephonic call, he went to the house of PW.1 along with others and sent away the accused from there. Similarly, PW.3, who is a clerk of PW.1, also reached the house and he also deposed that he saw the accused standing in front of the house of PW.1 holding a knife in her hand and threatening the *de facto* complainant. PW.4 is another neighbouring shopkeeper and he also corroborates the evidence of PWs.1, 2 and 3. PW.5 is one of the tenants of the accused and he speaks about the disputes in between him and the accused/landlady in respect of enhancing the rent. He came to know about the present incident subsequently.

8. The evidence of PWs.1 to 4 is consistent and cogent. They all deposed uniformly that on the date of the incident, the accused went to the house of PW.1 being infuriated by the professional act of PW.1 in filing the suit on behalf of the tenants who were being insisted by the accused landlady to enhance the rent from Rs.4,000/- to Rs.6,000/- and on their failure, threat of eviction was held out. The evidence of the material witnesses is inspiring and nothing concrete is elicited from them for disbelieving their sworn statements. No motive, whatsoever, is attributed to all the four witnesses who have nothing against the petitioner/accused to implicate her falsely. Both the Courts below have appreciated the evidence on record and held that the case of the prosecution is proved and considering the nature of the offences, the fact that the petitioner/accused is a woman and the other aspects, imposed the fine as stated. The Judgments of both the Courts below do not suffer from any material irregularity or illegality warranting interference. There are no merits in the revision and the same is liable to be dismissed.

9. In the result, the Criminal Revision Case is dismissed. Miscellaneous petitions, if any, pending in this revision shall stand closed.

M.S.K.Jaiswal, J

26th August, 2015
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