

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

**CRL.R.C.No.361 of 2007**

**JUDGMENT:**

This Criminal Revision Case is directed against the judgment of the learned Additional Sessions Judge, Hindupur, in Crl.A.No.110 of 2004 dated 10.03.2007 confirming the conviction and sentence imposed against the revision petitioner-accused by the learned Assistant Sessions Judge, Penukonda, in S.C.No.896 of 2003 dated 21.12.2004.

It is the case of the prosecution that there were ill-feelings between P.W.1 and the accused, as the accused deceived P.W.1 and his family members in listing out the names of their family members for the free distribution of new clothes by Lord Sri Satya Sai Baba at Puttaparthi. While so, on the night of 18.08.2002 at 10.30 P.M. when P.W.1 was sleeping on a cot in front of his house, the accused armed with sickle came there with an intention to kill him, woke him up and hacked him with a sickle on his neck and when P.W.1 tried to get up from the cot, the accused again hacked on his left shoulder and other places with the sickle. Thereafter, when P.W.1 raised cries, P.W.2, who is the wife of P.W.1, woke up and raised cries and that P.W.3 rushed there and on seeing him, the accused fled away from the scene with the sickle. On the report given by P.W.1, police registered a case in Crime No.40 of 2002 under Sections 326 and 307 I.P.C.

During the course of trial, the prosecution has examined P.Ws.1 to 8 and got marked Exs.P1 to P4 and M.Os.1 and 2 to prove the guilt of the accused. On behalf of the accused, no witness was examined, but Exs.D1 to D8 were marked. The trial Court, on appraisal of entire evidence both oral and documentary,

while acquitting the revision petitioner-accused for the offence under Section 326 I.P.C., found the revision petitioner-accused guilty of the offence under Section 307 I.P.C. and accordingly convicted and sentenced him to undergo imprisonment for a period of seven years and to pay fine of Rs.1,000/-, in default, to suffer imprisonment for a period of six months.

Aggrieved by the aforesaid conviction and sentence, the revision petitioner-accused preferred CrI.A.No.110 of 2004 and the learned Additional Sessions Judge, Hindupur, by judgment dated 10.03.2007, confirmed the conviction and sentence recorded by the trial Court. Aggrieved thereby, the revision petitioner-accused preferred this criminal revision.

Learned Counsel for the revision petitioner submitted that the Courts below erred in placing reliance on the highly interested and discrepant testimony of P.Ws.1 to 6 and erroneously convicted the revision petitioner. He further submitted that there are material contradictions and omissions in the evidence of P.Ws.1 to 6 and, therefore, their evidence cannot be relied on. He further submitted that there is enmity between the accused and P.Ws.1 to 6 and as such the evidence of P.Ws.1 to 6 is not trustworthy.

On the other hand, the learned Public Prosecutor representing the State contended that the evidence of P.Ws.1 to 6 would clinchingly establish that the revision petitioner-accused was responsible for the commission of offence and, therefore, both the Courts, have justified in convicting and sentencing the revision petitioner for the offence under Section 307 I.P.C. and as such no interference is called for by this Court.

Now the point that arises for consideration is as to whether the prosecution could able to prove its case beyond all

reasonable doubt so as to sustain the conviction and sentence as imposed by both the Courts below?

POINT:: Perused the entire oral and documentary evidence available on record. P.W.2 is the wife, P.W.3 is the son, P.W.4 is the son of senior paternal uncle and P.Ws.5 and 6 are the relatives of P.W.1-injured. According to the prosecution, P.W.1, P.W.2 and P.W.3 are the eyewitnesses to the incident. The motive for the commission of offence is with regard to the altercation between the accused and P.W.1 on the issue of accused not enlisting the names of the family members of P.W.1 for free distribution of new clothes by Lord Sri Satya Sai Baba at Puttaparthi and that the accused challenged P.W.1 to kill him on one day or other.

The evidence of P.W.1, who is none other than the injured-cum-defacto complainant is to the effect that on 18.08.2002 at about 10.30 P.M. while he was sleeping in front of his house on a cot along with his wife (P.W.2) in the light of electric bulb, the accused came with a sickle and hacked him on his left shoulder twice, left cheek and on the back side of his neck, as a result of which, he sustained bleeding injuries.

Further, the evidence of P.W.2, who is the wife of P.W.1 and who is an eyewitness to the incident, amply establishes the fact that on the date of incident, while she was sleeping on a wooden bench and P.W.1 was sleeping on a cot, the accused came to their house and hacked P.W.1 with a sickle on his left shoulder, left cheek and also on the back side of his head causing bleeding injuries. In the cross-examination of P.Ws.1 and 2, nothing concrete was elicited to discredit their evidence. P.Ws.3, 4, 5 and 6 are the circumstantial witnesses and according to their evidence, on hearing the cries of P.Ws.1 and 2, they rushed to the

place of incident and found P.W.1 lying on a cot with bleeding injuries and on seeing them, the accused ran away with a sickle in his hand. Therefore, the evidence of P.Ws.1 to 6 proves that the accused hacked P.W.1 with a sickle causing bleeding injuries.

P.W.7 is the doctor, who treated P.W.1 on 19.08.2002, found the following injuries:

1. A lacerated injury posterior side of the shoulder joint up to 2" medial to the two spinal columns.
2. A lacerated injury 5" over the occipital region above the first cervical vertebra.
3. A lacerated injury 4" from the left side of the face starting from Mandible to middle of the face.
4. A lacerated injury 4" from occipital region to in front temporal region.

P.W.7 further stated that the above injuries would have been caused by a sickle and they are grievous in nature. The evidence of P.Ws.1 and 2 is corroborated by the medical evidence.

Further, the offence took place on 18.08.2002 at 10.30 P.M. and Ex.P2-F.I.R. was registered within half an hour after the incident i.e., at 11.00 P.M. on 18.08.2002 and, therefore, there is no scope for deliberations or discussions to implicate the accused. Further, the minor contradictions pointed out by the learned Counsel for the revision petitioner are not material contradictions which would go to the root of the prosecution case.

On perusal of the entire evidence on record, this Court is of the view that both the Courts have given sufficient and cogent reasons in convicting the revision petitioner-accused for the offence under Section 307 I.P.C. Hence the conviction passed by the trial Court as well as the appellate Court against the revision petitioner-accused is upheld.

With regard to the quantum of sentence, the learned Counsel for the revision petitioner-accused submits that after this incident, the relationship between the revision petitioner and P.W.1 is cordial and no untoward incident has been happened. He further submitted that the offence took place on 18.08.2002 and almost 13 years have passed and during this period the revision petitioner must have repented for what he did and he had also undergone imprisonment for a period of 45 days as an under trial prisoner and also subsequent to the dismissal of the criminal appeal and hence a lenient view may be taken in so far as the sentence of imprisonment is concerned.

Taking the totality of the circumstances into consideration and also having regard to the aforesaid submissions of the learned Counsel for the revision petitioner, this Court is of the view that imposition of sentence of two years imprisonment on the revision petitioner would meet the ends of justice.

In the result, the sentence of imprisonment for a period of Seven years, as was imposed on the revision petitioner by both the Courts below, is reduced to two years imprisonment, while maintaining the sentence of fine imposed against him. Benefit of Section 428 Cr.P.C. shall be given to the revision petitioner. The revision petitioner is directed to surrender himself before the concerned Court to serve out the remaining sentence of imprisonment.

With the above modification in the sentence of imprisonment, the Criminal Revision Case is dismissed.

---

**M.S.K.JAISWAL, J**

01-09-2015

Note: Despatch the copy of the Judgment forthwith.

*(Bo)*

*Gsn*