

THE HONOURABLE SMT JUSTICE ANIS
CRIMINAL REVISION CASE No.870 of 2008

ORDER

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This Criminal Revision Case under Sections 397 and 401 of the Code of Criminal Procedure, 1973, is filed by the revision petitioner/A2 challenging the judgment dated 10.04.2008 passed in CrI.A.No.40 of 2007 by the Principal Sessions Judge, Nalgonda, where-under and whereby the conviction and sentence imposed by the Judicial Magistrate of First Class, Devarakonda vide judgment dated 13.04.2007 in C.C.No.104 of 2004, against him for the offence punishable under Section 324 read with Section 34 IPC, was modified while setting aside the conviction and sentence imposed against A1.

2. The revision petitioner herein is A2 and the respondent herein is the complainant before the trial Court. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed in C.C. No.104 of 2004.

3. The brief facts of the prosecution case are that on 20.08.2003 at about 12.00 noon, while P.W.1 and his father were ploughing their land and at about 2.00 PM., the accused came there and obstructed their work. When they questioned, A2 beat P.W.1 on his head with a stick, as a result of which, P.W.1 sustained bleeding injury. When P.W.2 interfered, A2 beat him on his right hand. A1 also beat P.W.1 on his right hand fingers with stick and also beat P.W.2. On the same day, P.W.1 lodged a complaint to the police and the same was registered as a case in Cr.No.82 of 2003 under Section 324 IPC against A1 and A2. The Investigating Officer recorded the statements of P.Ws.1 and 2 and sent the injured to

the Government Hospital for treatment. The Investigating Officer visited the scene of offence and recorded the statements of all the material witnesses. After receiving the wound certificates and after arresting the accused on 29.08.2003, the Investigating Officer filed the charge sheet against A1 and A2.

4. The learned Judicial Magistrate of First Class, Deverakonda, took cognizance of the case and framed the charge for the offence punishable under Section 324 read with Section 34 IPC against A1 and A2, read over and explained to them, for which, they pleaded not guilty and claimed to be tried.

5. During the course of trial, on behalf of the prosecution, PWs.1 to 10 were examined and Exs.P1 to P6 were marked.

6. After closure of the prosecution evidence, accused were examined under Section 313 Cr.P.C putting all the incriminating material available against them. They denied the material evidence and reported no oral or documentary evidence on their behalf.

7. The trial Court, after hearing the arguments and after considering the evidence on record, convicted the accused for the offence punishable under Section 324 read with Section 34 IPC and sentenced them to undergo imprisonment for a period of two months and to pay fine of Rs.500/- each, in default to suffer imprisonment for a period of 15 days each.

8. Aggrieved by said the conviction and sentence recorded by the trial Court, accused preferred an appeal being CrI.A.No.40 of 2007 before the Court of Principal Sessions Judge, Nalgonda. The appellate Court, after considering the evidence on record, set aside the conviction and sentence imposed against A1 as the medical evidence is not tallying with the injuries received by P.Ws.1 and 2

in the hands of A1, but modified the sentence of imprisonment imposed against A2 from two months to that of fine of Rs.10,000/- payable to P.W1 as compensation,

9. Aggrieved by the judgment of the appellate Court, A2 preferred the present revision.

10. Learned counsel appearing for the revision petitioner/ A2 argued that the trial Court as well as the appellate Court failed to appreciate the oral and documentary evidence properly since the evidence of P.Ws. 1 and 2 is contradicted with each other and therefore, he prayed this Court to allow the revision case.

11. On the other hand, learned Additional Public Prosecutor argued that after considering the entire evidence on record, both the Courts below categorically recorded the findings as mentioned above. He further argued that the appellate Court has taken a lenient view in favour of A1 basing on the evidence of P.W.10- doctor and P.Ws.1 and 2, who clearly stated in their evidence about the overt acts and about receiving injuries and finally prayed this Court to dismiss the present revision.

12. Now, the point for consideration is whether the petitioner/A2 is entitled to acquittal as prayed for.

13. **Point:**

P.W.1 is the de facto complainant and P.W.2 is his father. As per their evidence, on the date of incident i.e., on 20.08.2013 at about 2.00 PM, when they are ploughing their land, both the accused came there and obstructed them. When P.Ws.1 and 2 questioned the highhanded behaviour of the accused, A2 beat P.W.1 on his head with a stick, as a result of which, P.W.1

sustained bleeding injury and A2 also beat P.W.2 on his right hand, whereas A1 beat P.W.1 on his right hand finger with a stick and also beat P.W.2. Immediately after the incident, P.W.8 registered the case in Cr.No.82 of 2003 under Section 324 IPC against both the accused, conducted the scene of offence panchanama, arrested the accused and sent the injured to the hospital for treatment. P.W.10 is the doctor, who treated P.Ws.1 and 2, clearly stated about the injuries received by P.W.1. P.W.10 noticed two lacerations over right parietal region. The evidence of P.W.1 also is that A2 beat him with a stick on his head, which is corroborated with the medical evidence. Thus, the trial Court as well as the appellate Court clearly held that A2 inflicted injuries on P.W.1 and those injuries are simple in nature. Likewise, the appellate Court rightly noticed that the injury inflicted by A1 on P.W.1 is not tallied with the medical evidence as there is no injury on the right hand finger and thus, rightly acquitted A1 from the charge framed against him. The appellate Court, after considering the evidence and the nature of injuries, modified the sentence of imprisonment imposed against A2 from two months to that of fine of Rs.10,000/- payable to P.W.1 as compensation. The contention of the petitioner that the evidence of P.Ws.1 and 2 is contradictory to each other cannot be accepted as their evidence clearly shows about the attack made by A2 and P.W.1 received injuries in his hands. The evidence of P.W.1 is that A2 beat him with a stick on his head is proved by the evidence of P.W.10 and the wound certificate issued by him. Thus, the appellate Court after considering the evidence on record and after taking a lenient view modified the sentence of imprisonment imposed against A2 from two months to that of fine of Rs.10,000/- payable to P.W.1 as compensation and as such, the petitioner has not made out a case to set aside the said judgment. Therefore, this

Court is of the view that the finding of the appellate Court in taking lenient view against the petitioner/A2 needs no interference by this Court.

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

ANIS, J

9th March, 2015

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