

**HON'BLE SRI JUSTICE C. PRAVEEN KUMAR**

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**CRIMINAL REVISION CASE No.34 of 2013**

**ORDER:**

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The present revision is filed under Sections 397 and 401 Cr.P.C. aggrieved by the judgment dated 03.01.2013 passed in CrI.A.No.273 of 2012 on the file of the Principal Sessions Judge, West Godavari at Eluru, wherein the learned Sessions Judge, confirmed the conviction and sentenced passed by the learned Judicial Magistrate of First Class, Special Mobile Court, Eluru in C.C.No.292 of 2009.

A charge sheet came to be filed against the petitioner herein for an offence punishable under Section 325 IPC. The averments in the charge sheet are that PWs.1 and 2, who are having double bullock carts with tyres used to shift paddy to the commission shops and also to the rice mills from the fields. On 06.05.2008 at about 8.30 p.m. when PWs.1, 2 and others were shifting paddy bags on their bullock carts from Kurrellagudem fields, when they reached Mandapala centre, M.M.Puram, the accused is alleged to have stopped the bullock cart of PW.2, questioned him about the reason for falsely informing to the owners about the accused committing theft of paddy while transporting. A quarrel took place between accused and PW.2. In this regard PW.3 tried to settle the dispute stating that the other carts were also stopped with load. Accused is alleged to have climbed over to the cart of PW.2 and slapped him, due to which PW.2 fell down towards the right side tyre of the cart. Due to fear, the bullocks got scared ran helter and skeltar. PW.2 was dragged to some distance and he sustained injury on the right side of his face, head, waist and both hands. Immediately, PW.2 was shifted to Government Hospital by 108 ambulance. Basing on the report lodged by PW.1 a case in Crime No.56 of 2008 of Bhimadole Police Station came to be registered.

After taking cognizance of the case and on appearance of the accused, the

learned Magistrate examined the accused U/s. 239 Cr.P.C. wherein he denied the charge under Section 325 IPC and claimed to be tried.

In support of its case, the prosecution examined PWs.1 to 9 and got marked Exs.P1 to P6.

After closure of the prosecution evidence, the accused was examined U/s. 313 Cr.P.C. where he denied the evidence on record. No defence is produced but Ex.D1 is marked on behalf of the accused.

After appreciating the oral and documentary evidence on record, the learned Magistrate found the accused guilty of the charge U/s.325 IPC, convicted and sentenced him to undergo Rigorous Imprisonment for a period of six months and to pay fine of Rs.1,000/-, in default simple imprisonment for two months. Aggrieved by the same, the accused preferred CrI.A.No.273 of 2012 before the Principal Sessions Judge, West Godavari, Eluru, who vide his judgment dated 03.01.2013 confirmed the conviction and sentence imposed by the learned Magistrate. Challenging the same the present revision is filed.

A perusal of the material on record would show that both the Courts after appreciating the evidence of PWs.1 and 2 convicted the accused. PW.1 in his evidence deposed that on 06.05.2008 at about 8.30 p.m. he along with PWs.2 to 7 were proceeding on their bullock carts with paddy load from the fields of Adapa Yesu and when they reached Mandapala Centre, the accused stopped them, abused PW.2 in filthy language and slapped him. He further deposed that PW.2 fell on the road near the right tyre of bullock cart and sustained injuries as the bullocks started running due to fear.

PW.2, who is the injured eye witness deposed that on 06.05.2008 at about 8.30 p.m. he along with PWs.1 and 3 to 7 were proceeding on their bullock carts with paddy load from the fields of Adapa Yesu. At that time the accused stopped them at Mandapala centre, abused him in filthy language and slapped him, due to which he fell down from the cart, sustained injuries as the bullocks dragged PW.2 to certain distance.

Though PWs.1 and 2 were cross examined at length, nothing useful was elicited to discredit their evidence. Hence, I see no reason to interfere with the concurrent findings arrived at by both the Courts below. However, a perusal of

the calendar of the trial Court would show that the petitioner was arrested on 12.05.2008 and released on bail on 14.10.2008. Hence, in view of the above, it is clear that the petitioner was in jail for a period of more than five months. As seen from the above, the incident took place on 06.05.2008 and since last seven years the petitioner has been going around the Courts. Having regard to said circumstance and taking into consideration the manner in which the incident took place, the sentence of imprisonment is reduced to the period already undergone by the petitioner while confirming the fine.

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

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

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**JUSTICE C. PRAVEEN KUMAR**

11.03.2015

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