

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.161 OF 2015

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ORDER:

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This Criminal Revision Case is filed by the sole accused challenging the judgment dated 11.6.2014 in CrI.A.No.318 of 2014 whereby the learned Metropolitan Sessions Judge, Hyderabad dismissed the appeal confirming the judgment of XXIII Special Magistrate, Hyderabad in C.C.No.33 of 2013 dated 19.09.2013 whereby the petitioner was convicted for the offence under Section 506 IPC and sentenced to pay a fine of Rs.1,000/-, in default, to suffer Simple Imprisonment for one month.

However, he was acquitted of the offence under Section 323 IPC.

The facts of the case are as follows:

The petitioner-accused and L.W.1-complainant were known to each other. During Greater Hyderabad Municipal Corporation election L.W.1 participated in canvassing in support of wife of petitioner and that he used to visit the office of the petitioner. While so, the petitioner asked L.W.1 to go to one Ravinder Agarwal and observe the constructions of a house complex in front of Gabriel High School. Since L.W.1 did not oblige, the petitioner scolded him in unparliamentary language and insulted him and bore grudge against him. That on 21.4.2010 between 4.40 p.m. and 5.00 p.m. when L.W.1 was present at Ghansi Bazar, Police out-post, the petitioner came out from Vaidik Vachanalayala and on seeing L.W.1, he became very angry, scolded P.W.1 in filthy language, caught hold his shirt's collar and threatened him with dire consequences and also put a gun on temple vision of L.W.1 saying that he would kill him with his licensed gun. On the report lodged by L.W.1, a case was registered and after completion of investigation, police laid the

charge sheet against the petitioner for the offences punishable under Sections 323 and 506 IPC.

In order to bring home the guilt of the petitioner-accused, prosecution examined P.Ws.1 to 4 and marked Exs.P.1 to P.4. On behalf of accused, no oral or documentary evidence was adduced.

P.Ws.1 and 2 are the independent witnesses and they did not support the case of the prosecution and were declared hostile. P.W.4 is the investigating officer, who speaks about his receiving the complaint-Ex.P.3 from the complainant-P.W.3, registering and investigating the case and filing of charge sheet for the offence under Sections 323 and 506 IPC. There remains the evidence of P.W.3, who is the aggrieved person and complainant.

Even though the allegation as per the complaint is that the petitioner-accused threatened P.W.3 at Ghansi Bazar and took out a revolver and tried to fire against him, the entire evidence does not disclose any recovery of such weapon from the petitioner. Merely on the basis of self-serving evidence adduced by P.W.3-complainant, the trial court as well as the lower appellate Court convicted the petitioner herein. It is true that no number of witnesses are required to prove an offence, but at the same time, it is to be decided on the basis of the facts and circumstances of each and every case. In the present case, the manner in which the allegations are set out by P.W.3 is highly improbable and unbelievable. Further the motive attributed by P.W.3 against the petitioner is also not so serious in nature and there is nothing to show that the petitioner has developed such an enmity against P.W.3 to threaten him that too with a gun in his hand. This Court is of the view that it is highly unsafe to convict

the petitioner on the sole testimony of P.W.3 in the absence of any independent witnesses. Hence, the conviction and sentence imposed by the trial Court as affirmed by the lower court are liable to be set aside.

In the result, the Criminal Revision Case is allowed and the conviction and sentence imposed by the trial court in C.C.No.33 of 2013 as confirmed by the lower appellate Court in Crl.A.No.318 of 2014 are hereby set aside and the petitioner is found not guilty of the offence under Section 506 IPC and he is acquitted of the said charge. The fine amount, if any, paid by the petitioner shall be returned to him.

Consequently, miscellaneous petitions, if any, pending, shall stand closed.

JUSTICE RAJA ELANGO

17.06.2015

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