

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.58 OF 2013

ORDER:

The present Revision is filed under Sections 397 and 401 Cr.P.C., challenging the order dated 03.01.2013 passed in Crl.Appeal No.150 of 2012 on the file of the Additional Sessions Judge, West Godavari, Eluru, wherein and whereunder the findings of the trial court in S.C. No.539 of 2012 on the file of the Principal Assistant Sessions Judge, Eluru, in convicting A-1 for an offence punishable under Section 324 IPC, was confirmed. Originally a charge-sheet was filed against A-1 and A-2, but after completion of trial, A-1 alone was convicted.

The case of prosecution is as under :

A-1 and A-2 are the son and father. P.W.1 is material grand mother of A-1 and mother-in-law of A-2. P.W.2 is the wife of A-2 and mother of A-1. P.W.3 is maternal uncle of A-1 and brother-in-law of A-2. The marriage of A-2 with P.W.2 was performed about 20 years ago and they were blessed with two children i.e., A-1 and his younger sister. While so, after the birth of A-1, A-2 got addicted to bad vices and subjected P.W.2 to cruelty. Unable to bear the harassment, P.W.2 while she was pregnant for second child, came to her mother's house and has been living there since 10 years by giving birth to a female child. A-1 also lived along with P.W.2 for few years but subsequently went to his father i.e., A-2. A-1 also got addicted to consume alcohol like his father. It is alleged that A-1 and A-2 bore grudge against P.W.1 for not sending P.W.2 to their house and on one occasion A-2 also attempted to kill P.W.3 due to which a criminal case was also registered against A-2. It is said that A-2 used to send A-1 to the house of P.W.1 whenever he is in need of money and A-1 used to take away the articles from the house of P.W.1. While things stood thus, on 04.11.2009 at 6.30 p.m., on the instructions of A-2, A-1 went to the house of P.W.1 and demanded herself and his sister Sai Sivani to be given a gold chain by threatening them on the point of knife. When P.W.1 warned A-1 that she would give police report, for which A-1 threatened them with dire consequences and went away. Thereafter on the next day i.e., on 05.11.2009 at 9.30 a.m., while P.W.1 was sweeping in front of her house, A-1 and A-2 came there in furtherance of common intention and A-1 poked P.W.1 on her stomach with a knife and caused bleeding injury. In the meantime P.Ws.2 and 3 came there and on seeing them A-1 and A-2

fled away. Then immediately P.W.1 was shifted to Govt. Hospital for treatment. Basing on her statement, a case was registered in Crime No.348 of 2009 under Section 307 read with 34 IPC. After hearing the prosecution, charge under Section 307 read with 34 IPC was framed against A-1 and A-2; and under Section 324 IPC against A-1 only.

In support of the case, the prosecution examined P.Ws.1 to 9 and got marked Exs.P-1 to P-6 and M.O.1-knife. On behalf of the accused, D.W.1 was examined, but no documents were marked. After appreciating the rival arguments, the trial court held that A-1 was liable for the offence under Section 324 IPC while acquitting A-2; Accordingly A-1 was sentenced to undergo simple imprisonment for a period of six months and to pay a fine of Rs.1,000/- in default to suffer simple imprisonment for a period of two months. Challenging the same, A-1 preferred CrI. Appeal No. 150 of 2012. After appreciating the rival arguments and the evidence on record, the lower appellate court confirmed the findings of the trial court, but however reduced the sentence to three months. Challenging the same, the present Revision is filed.

Learned counsel appearing for the petitioner/A-1 only argued with regard to the quantum of sentence and stated that the incident took place in the year 2009 and the petitioner will be put to great hardship if he is sent to Jail, hence prays for a lenient view.

Learned Public Prosecutor appearing for the respondent/State opposed the same.

A perusal of the judgments of both the courts would disclose that the accused is none other than the grandson of the informant and there were family disputes between them. It is true that since last six years i.e., from the year 2009 the petitioner is going around the courts. Hence, taking into consideration the age of the petitioner at the time of the incident and also the time that lapsed from the date of incident, I am of the view that ends of justice would be subserved if the sentence awarded to the petitioner is reduced from three months to one month. The sentence of imprisonment already undergone by the petitioner shall be given set off.

With the above modification, the Criminal Revision Case is disposed of.

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

Date:01.04.2015

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