

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.911 OF 2007

JUDGMENT:

This Criminal Appeal is filed by the appellant – complainant by invoking the provision under Section 378(4) of the Code of Criminal Procedure (Cr.P.C.), challenging the order of acquittal, dated 06.01.2007, passed in C.C.No.369 of 2002, by the Additional Judicial Magistrate of First Class, Peddapuram, whereby and whereunder the learned Magistrate found A-2 not guilty for the offence under Section 324 IPC and A-1 and A-2 were found not guilty for the offence under Sections 323, 447, 379 and 506(2) IPC and, accordingly, they were acquitted under Section 248(1) Cr.P.C.

2. The brief facts, that are necessary for the disposal of the present Criminal Appeal, may be stated as follows:

The complainant is the resident of J.Thimmapuram Village having land in S.No.154/E of J.Thimmapuram Village in which they raised mango tope and there are disputes between the accused and complainant. On the date of offence, i.e., on 18.05.2001, the complainant learnt through P.W.2, who is the husband of the complainant, that the accused along with 20 other persons criminally trespassed into the scene of offence i.e., the land of the complainant and her husband and removing the mangoes from the trees and loading into the tractor and when P.W.2 obstructed, the accused threatened him, then immediately the complainant and her husband rushed to the scene of offence along with P.W.2, and obstructed their acts, then both the accused beat the complainant with their hands and legs and also with

sticks and the accused caught hold of the left hand of the complainant and attempted to drag her and also by beating with sticks on the right hand of the complainant stating to withhold the tractor by stating that "TRACTOR MEEDA CHEYYI TEEYAVE LANJA" and scolded the complainant in vulgar language with an intention to outrage her modesty and when her husband questioned the accused about their illegal acts, they also assaulted him, then the complainant and her husband came back and with the assistance of the villagers, attempted to stop the vehicle, again the accused beat the complainant and P.W.1 and also scolded in vulgar language and assaulted. Then the complainant and her husband rushed to the Peddapuram Police Station, then the S.I. of Police advised the complainant and her husband to go to Government Hospital, Kakinada, for treatment as the doctors in Peddapuram are not available, then the complainant and her husband went to G.G.H., Kakinada, and got treatment and returned to Peddapuram Police Station on the evening and filed a report, but the police not enquired the case properly and the tractor and trailer used by the accused are AP 5X 839 and AP 5T 4991 and since the police have not taken any action, the complainant filed a complaint and the same was forwarded to the S.H.O., Peddapuram, under Section 156(3) Cr.P.C. and the police registered a case in Crime No.140 of 2001 under Sections 447, 323, 324, 379 & 354 IPC and referred the case as civil nature. Even though a complaint was lodged, the same was not investigated by the Investigation Agency. Aggrieved over the same, the complainant filed the present complaint.

3. The complaint was taken on file under Sections 447, 323, 324, 379 & 506 IPC and charge under Section 324 IPC against A-2 and charges under Sections 447, 323, 379 & 506 (2) IPC against A-1 & A-2 were framed, read over and explained to them in Telugu, for which, they pleaded not guilty and claimed for trial.

4. To substantiate its case, the prosecution got examined P.Ws.1 to 5 and marked Exs.P-1 to P-5. On behalf of defence, no witness was examined, but Ex.X-1 was marked.

5. After evaluating the oral and documentary evidence adduced by the prosecution, the trial Court found A-2 not guilty for the offence under Section 324 IPC and found A-1 and A-2 not guilty for the offences under Sections 323, 447, 379 and 506(2) IPC and they were, accordingly, acquitted. Aggrieved by the said judgment, the appellant/complainant preferred the present appeal.

6. The learned trial Judge acquitted the accused basing on the evidence of P.Ws.1 and 2, supported by the evidence of P.W.4 - Medical Officer, who examined P.W.2 and found an abrasion over front of the middle 1/3 of the left leg about 6 x 3 c.m. red in colour and an abrasion over middle 1/3 of the front of the right leg about 3 x 1 c.m. red in colour and a contusion over the right side of the occiput about 1 x 1 c.m., scar mark of old fracture below the right knee present. The case is supported only by the evidence of P.W.3, who is none other than the worker under P.Ws.1 and 2. P.W.5 - the Investigation Officer has not supported the case of the prosecution. According to his evidence, as per his investigation, the accused did not beat the complainant and did not commit theft of mangoes. He examined the tractor driver and

neighbouring landlords and his investigation did not reveal the fact that the accused committed theft of mangoes. Hence, the evidence of P.W.5 reveals that there is no such occurrence as alleged. Hence, he has not proceeded with the investigation.

7. Further, in a case of acquittal, if the trial Court considered the two views and basing on one of the views, which is in favour of the accused, acquits the accused, normally, the appellate Court will not interfere with the judgment of the trial Court unless and otherwise, the evidence adduced by the prosecution clinchingly points towards the guilt of the accused. In the present case, the learned trial Judge has considered all aspects and acquitted the accused. Hence, this Court is not inclined to interfere with the judgment of acquittal of the trial Court and the appeal fails and is liable to be dismissed.

8. Accordingly, the Criminal Appeal is dismissed by confirming the judgment, dated 06.01.2007, in C.C.No.369 of 2002, on the file of the Additional Judicial Magistrate of First Class, Peddapuram. Miscellaneous petitions pending, if any, in this Criminal Appeal shall stand closed.

RAJA ELANGO, J

Date: 30th September, 2016

KL

HONOURABLE SRI JUSTICE RAJA ELANGO



CRIMINAL APPEAL No.911 of 2007

Date: 30th September, 2016

KL