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JUDGMENT:- (per Hon'ble Sri Justice G. Chandraiah)

This Criminal Appeal is directed against the judgment dated 17.06.2009 delivered in S.C.No. 622 of 2007 whereby the learned IV Additional Sessions Judge (FTC-III), Khammam, while convicting A2, A3 & A5 to A10 of the offences punishable under Sections 147, 148 and 302 read with 149 IPC, A10 of the offence under Section 324 IPC and A2, A3 and A5 to A9 of the offence under Section 324 read with 149 IPC, sentenced A2, A3 & A5 to A10 to suffer rigorous imprisonment for six months and pay a fine of Rs.500/- each, in default, to suffer simple imprisonment for one month for the offence under Section 147 IPC; and also to suffer rigorous imprisonment for six months and pay a fine of Rs.1,000/- each, in default, to suffer simple imprisonment for one month for the offence under Section 148 IPC; and sentenced A10 to suffer rigorous imprisonment for six months and pay a fine of Rs.1,000/-, in default, to suffer simple imprisonment for one month for the offence under Section 324 IPC and further sentenced A2, A3, A5 to A9 to suffer rigorous imprisonment for 3 months and pay a fine of Rs.500/-

each, in default, to suffer simple imprisonment for one month for the offence under Section 324 read with 149 IPC and also sentenced A2, A3, A5 to A10 to suffer life imprisonment for the offence under Section 302 read with 149 IPC and all the sentences shall run concurrently.

The present appeal has been filed with a delay of 126 days, and this Court, by order dated 19.01.2010, while admitting the appeal, condoned the delay in Crl.A.M.P.No. 49 of 2010, but on verification of the facts, it is noticed that A3, A5, A6 and A7, who are the appellants herein, and A2 & A8 to A10 preferred Crl.A.No. 1202 of 2009 against the very same judgment dated 17.06.2009 delivered in S.C.No. 622 of 2007, and this Court, by judgment dated 10.11.2009, while confirming the conviction and sentence of A2, A3, A5 to A10 for the offences punishable under Sections 147 and 148 IPC and A10 for the offence under Section 324 IPC and A2, A3, A5 to A9 for the offence under Section 324 read with Section 149 IPC, modified the conviction and sentence imposed on the accused for the offence under Section 302 IPC to the following effect:

“In the circumstances, it is held that A2 is liable for conviction for the offence under Section 304 Part II IPC and A3, A5 to A10 are liable for conviction for the offence under Section 304 Part II read with Section 149 IPC. It is stated that all the accused are poor persons and were eking out their livelihood by doing coolie work and they are in judicial custody since about two years.

Having regard to the facts and circumstances of the case, it is considered that the ends of justice would be met by

sentencing A2 to undergo rigorous imprisonment for four years for the offence under Section 304 Part II IPC and A3, A5 to A10 to undergo rigorous imprisonment for four years for the offence under Section 304 Part II IPC read with Section 149 IPC.”

However, when the present Criminal Appeal was admitted on 19.01.2010, the fact that the appellants herein, on the earlier occasion, filed CrI.A.No. 1202 of 2009 against the very same judgment, and the same was dismissed on 10.11.2009 with partial modifications as reproduced above, seems to have not been brought to the notice of this Court.

In that view of the matter, no further orders are necessary in this Criminal Appeal, and accordingly, this appeal is closed.

As a sequel to the closure of the Criminal Appeal, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

G. CHANDRAIAH, J

10.02.2016

U.DURGA PRASAD

RAO,J

bcj