

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.232 of 2007

JUDGMENT:

This criminal appeal is preferred by the appellant/A-1 by invoking the provision under Section 374(2) of the Code of Criminal Procedure being aggrieved by the judgment, dated 07.11.2006, rendered in S.C.No.211 of 2006, by the V Additional Metropolitan Sessions Judge (Mahila Court), at Hyderabad, whereby and whereunder the learned Sessions Judge found A-1 guilty of the offence punishable under Section 325 IPC and A-2 is found guilty for the offence punishable under Section 323 IPC and A-1 and A-2 are found guilty for the offence punishable under Section 506 IPC and they are convicted for the said offences under Section 235(2) Cr.P.C. and A-1 was sentenced to undergo Rigorous Imprisonment for one (1) year and to pay a fine of Rs.2,000/- for the offence punishable under Section 325 IPC, in default to undergo Simple Imprisonment for a period of three (3) months and A-2 was sentenced to pay a fine of Rs.2,000/- for the offence punishable under Section 323 IPC, in default to undergo Simple Imprisonment for a period of three (3) months and A-1 & A-2 were sentenced to pay a fine of Rs.1,000/- each for the offence punishable under Section 506 IPC, in default to undergo Simple Imprisonment for a period of one (1) month each. A-1 was found not guilty of the offence punishable under Section 354 IPC and he is acquitted for the said offence under Section 235(1) Cr.P.C.

2. The case of the prosecution is as follows:

On 15.12.2003 at 19.45 hours, a report was filed by the *de facto* complainant stating that on that day at 5.30 p.m., the A-1 and his wife – A-2 were quarrelling with his sister-in-law by name Smt. Lalitha at the house of one Muthyalu and the *de facto* complainant intervened to pacify the quarrel, on which A-1 beat the *de facto* complainant and dashed his mouth with his head, as a result of which he lost his lower middle teeth and also sustained bleeding injury. He also caught hold of the blouse of his sister-in-law and both the accused beat his sister-in-law. Based on the said complaint, a case was registered in Crime No.520 of 2003 for the offences punishable under Sections 354, 325 and 506 IPC. After due investigation, charge sheet was filed for the same offences.

3. On appearance of A-1 & A-2 before the committal Court, the committal Court duly complied with all the required legal formalities and committed the case to the Metropolitan Sessions Division, Hyderabad. The learned Metropolitan Sessions Judge took the matter on file and made over the same to the V Additional Metropolitan Sessions Judge (Mahila Court) at Hyderabad for trial and disposal.

4. On appearance of the accused, the trial Court duly complied with all the required legal formalities and based on the *prima facie* material on record, framed charges for the offences punishable under Sections 325 and 506 IPC against A-1 and A-2 and in addition, a charge under Section 354 IPC was also framed against A-1, read over and explained to them, for which they pleaded not guilty and claimed to be tried.

5. During the course of trial, P.Ws.1 to 6 were examined and Exs.P-1 to P-5 and M.O.1 were marked on behalf of the prosecution. No oral or documentary evidence was adduced on behalf of the accused.

6. On appreciation of the oral and documentary evidence, the trial Court found A-1 guilty of the offence punishable under Section 325 IPC and A-2 is found guilty for the offence punishable under Section 323 IPC and A-1 and A-2 are found guilty for the offence punishable under Section 506 IPC and convicted and sentenced them as stated above. A-1 was found not guilty of the offence punishable under Section 354 IPC and he is acquitted for the said offence under Section 235(1) Cr.P.C. Aggrieved by the same, the present criminal appeal is preferred by the appellant/A-1.

7. Heard and perused the entire material available on record.

8. After evaluating the evidence and after examining the material available on record, this Court is of the view that there are no valid reasons to interfere with the judgment of the trial Court in convicting the appellant/A-1 for the offences under Sections 325 and 506 IPC.

9. Learned counsel for the appellant mainly contended that there is no independent witness to support the case of the prosecution and the case of the prosecution is mainly relied on the evidence of P.W.1, who is the victim and P.W.2 is related to P.W.1 and the investigation officer has not taken any steps to examine any other witnesses. Learned counsel for the appellant

further submitted that the recovery of M.O.1 is not substantiated by proper evidence.

10. When this Court pointed out that there are no merits in the appeal, learned counsel for the appellant/A-1 informed that the appellant/A-1 suffered a substantial period in prison. Learned counsel for the appellant confined his arguments only to the quantum of sentence and prayed this Court to take a lenient view.

11. Learned Public Prosecutor submitted that in order to substantiate any evidence, no number of witnesses are required, but even relying on the testimony of a single witness, conviction can be recorded.

12. As far as the evidence of P.Ws.1 and 2 are concerned, in all material aspects, the evidence of P.Ws.1 and 2 supported the case of the prosecution and absolutely there is no discrepancy in the evidence of P.Ws.1 and 2 and there is no contradiction elicited in the cross-examination, more particularly, the evidence for the offence punishable under Section 325 IPC is concerned. Since the evidence to the extent of an offence under Section 325 IPC is established, while acquitting the appellant/A-1 for the offence punishable under Section 354 IPC, the learned trial Judge convicted the appellant/A-1 as stated above for the offences punishable under Sections 325 & 506 IPC.

13. Considering the facts and circumstances of the case, the evidence of P.Ws.1 and 2 in all material aspects, the time of occurrence, the manner in which it is adjudicated and also other circumstances which necessitated the appellant to

cause injuries as spoken by the witnesses and the time elapsed, this Court is inclined to reduce the sentence of imprisonment for the offences under Sections 325 and 506 IPC imposed by the trial Court to that of the period, which the appellant/A-1 has already undergone.

14. In the result, the Criminal Appeal is partly allowed. The conviction recorded by the learned V Additional Metropolitan Sessions Judge (Mahila Court) at Hyderabad, vide judgment, dated 07.11.2006, in S.C.No.211 of 2006, against the appellant/A-1 for the offences under Sections 325 and 506 IPC is hereby confirmed. But the sentence of imprisonment imposed by the learned trial Judge for the said offences is reduced to the period already undergone by the appellant/A-1. However, the sentence of fine imposed by the trial Court shall not be interfered with. Miscellaneous applications, if any, pending in this appeal, shall stand closed.



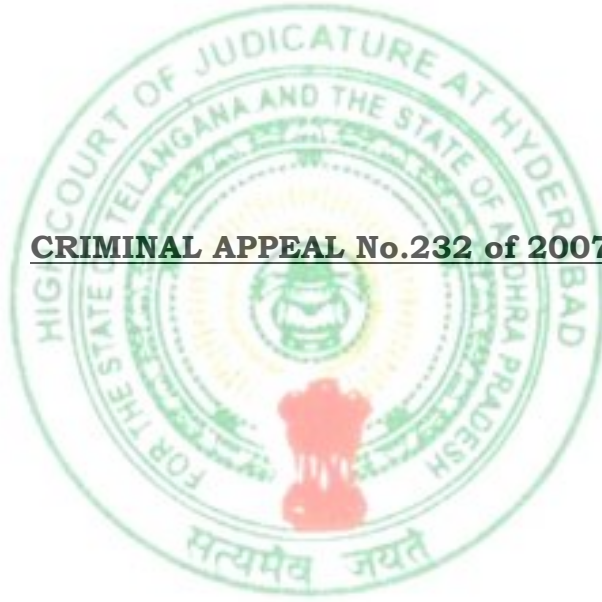
RAJA ELANGO, J

Date: 13th October, 2016

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