

THE HON' BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.26 of 2007

ORDER:

This Criminal Revision Case is preferred by the petitioners – Accused against Judgment, dated 29.12.2006, passed in CrI.A.No.22 of 2005 by the IV-Additional Sessions Judge, Kurnool, whereby the learned Sessions Judge dismissed the appeal by confirming the conviction and sentence imposed by the Assistant Sessions Judge, Kurnool, in SC No.437 of 2003 vide judgment, dated 14.02.2005, wherein the learned Assistant Sessions Judge found the 1st petitioner – accused No.1 guilty of the offences punishable under Section 324 IPC and sentenced him to undergo simple imprisonment for a period one year; and found the petitioners 2 and 3 – accused Nos.2 and 3 guilty of the offence under Section 326 IPC and sentenced the 2nd petitioner – A2 to undergo simple imprisonment for three years and to pay a fine of Rs.1,000/- in default to suffer simple imprisonment for six months and sentenced the 3rd petitioner – A3 to suffer simple imprisonment for two years and to pay a fine of Rs.1,000/- in default to suffer simple imprisonment for six months.

The case of the prosecution, in brief, is as follows:

The petitioners – accused beat the de facto complainant in the fields of Pothuladoddi village on 03.08.2002 at 11.00 a.m., and caused simple and grievous injuries alleging that the de facto complainant tried to commit rape on A3. Basing on the complaint of the de facto complainant, the Peapully police registered a case in Crime No.39 of 2002 for the offences punishable under Sections 324 and 307 IPC and got the injured examined by the doctor, recorded the statements of all the witnesses. After completion of investigation, police filed charge sheet against the petitioners for the offence under Section 326 r/w.34 IPC.

The Judicial Magistrate of First Class, Dhone took cognizance of the case for the offences punishable under Sections 307 and 326 read with 34 IPC. On appearance of the accused, the charges were read over and explained to him, for which he pleaded not guilty and claimed to be tried.

During the course of trial, the prosecution examined PWs.1 to 8 and marked Exs.P.1 to P.12 besides MOs.1 to 3. No oral or documentary evidence was adduced on behalf of the accused.

On appreciation of oral and documentary evidence, the trial Court found the 1st petitioner – A1 guilty of the offence under Section 324 IPC and petitioners 2 and 3 – A2 and A3 for the offence under Section 326 IPC, and accordingly, convicted and sentenced them as stated above. Aggrieved by the same, the accused preferred Crl.A. No.22 of 2005 before the IV-Additional Sessions Judge, Kurnool. The learned Sessions Judge, after re-appreciation of the evidence, dismissed the appeal by confirming the conviction and sentence recorded by the trial Court against the accused. Challenging the same, the present revision is preferred by the petitioners – accused.

Heard and perused the entire material available on record.

After evaluating the evidence and after considering the material available on record, this Court is of the view that there are no valid reasons to interfere with the concurrent findings of the Courts below in convicting the petitioners – accused for the offences alleged against them.

When this Court pointed out that there are no merits in the revision, learned counsel for the petitioners – accused restricted his

arguments to the quantum of sentence and requested to take a lenient view while imposing the sentence.

Considering the facts and circumstances of the case and also taking into consideration that the case pertains to the year 2003, this Court is inclined to reduce the sentence of imprisonment imposed by the trial Court on the petitioners – accused for the above offences, as confirmed by the lower appellate Court, to that of the period, which the petitioners have already undergone.

In the result, the conviction recorded by the Assistant Sessions Judge, Kurnool, vide judgment, dated 14.02.2005, in SC No.437 of 2003, as confirmed by the IV-Additional Sessions Judge, Kurnool, vide judgment, dated 29.12.2005, in Crl.A. No.22 of 2005, against the 1st petitioner – A1 for the offence under Section 324 IPC, and against the petitioners 2 and 3 – A2 and A3 for the offence under Section 326 IPC, is hereby confirmed. However, the sentences of imprisonment imposed by the trial Court, as confirmed by the appellate Court, against the 1st petitioner for the offence under Section 324 IPC and against the petitioners 2 and 3 for the offence under Section 326 IPC, is modified and reduced to that of the period, which the petitioners have already undergone. The fine amount, imposed against the petitioners 2 and 3, is not interfered with.

Accordingly, the Criminal Revision Case is partly allowed. Consequently, miscellaneous applications, if any pending, shall stand closed.

RAJA ELANGO, J

September 07, 2016.
KTL