

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.182 of 2007

JUDGMENT:

This criminal appeal is preferred by the appellant/accused by invoking the provision under Section 374(2) of the Code of Criminal Procedure being aggrieved by the judgment, dated 09.02.2007, rendered in S.C.No.116 of 2006, by the Special Sessions Judge for Trial of Cases under S.Cs. and S.Ts. (P.O.A) Act-cum-VII Additional District and Sessions Judge, Mahabubnagar, whereby and whereunder the learned Sessions Judge found the appellant not guilty of the offences under Sections 3(1)(x) of S.C.s and S.Ts. (POA) Act, 1989 and Section 307 IPC and acquitted him and the appellant was found guilty of the offence punishable under Section 326 IPC, convicted for the same and sentenced him to suffer Rigorous Imprisonment for a period of three (3) years and to pay a fine of Rs.1,000/-, in default to suffer Simple Imprisonment for a period of one (1) month.

2. The case of the prosecution is as follows:

On 23.04.2001 at 5.30 a.m., the *de facto* complainant lodged a report before police Gattu stating that about one week back, the *de facto* complainant repaired the chappal of the accused, as per his wish. After some time, on same day, the accused picked up quarrel with him alleging that he did not repair chappal properly. On 22.04.2001 at about 9.00 p.m., when the *de facto* complainant slept in front of his house, the accused went to him in drunken state, caught hold of his shirt, pulled and then pushed down due to previous grudge and then kept his leg on the neck of the *de facto* complainant. On that, the wife of the *de facto* complainant and

mother intervened to separate. Then the accused picked up stick and beat his wife and mother indiscriminately. The wife of the *de facto* complainant sustained fracture of right wrist and bleeding injury on the head. His mother also sustained bleeding injuries on head, left hand etc.

3. On the above complaint, the Sub-Inspector of Police, Gattu, registered a case in Crime No.17 of 2001 under Sections 324 & 326 IPC and investigated into. During the course of investigation, he examined and recorded the statements of all the material witnesses, sent the injured to Government Hospital, Gadwal, and after obtaining medical certificates and also after completion of investigation, charge sheet was laid against the accused for the offence under Sections 324 & 326 IPC.

4. After taking cognizance of the charge sheet filed by the Investigating Agency, the Judicial Magistrate of First Class, took the case on file and committed the case to the Court of Sessions, Mahabubnagar for disposal in accordance with law. On appearance of the accused before the Court, the charges under Section 3(1)(x) of S.Cs. and S.Ts. (POA) Act, 1989 and Sections 307 & 326 IPC were framed, read over and explained to him, for which, he pleaded not guilty and claimed for trial.

5. During the course of trial, P.Ws.1 to 11 were examined and Exs.P-1 to P-7 were marked on behalf of the prosecution. No oral evidence was adduced on behalf of the accused, but Ex.D-1 was marked.

6. On appreciation of the oral and documentary evidence, the trial Court found the accused not guilty of the offences under Section 3(1)(x) of S.Cs. and S.Ts. (POA) Act, 1989 and Section 307

IPC and acquitted him for the said offences, but it found the accused guilty of the offence under Section 326 IPC and accordingly convicted and sentenced him to suffer rigorous imprisonment for a period of three (3) years and to pay a fine of Rs.1,000/-, in default to suffer Simple Imprisonment for a period of one (1) month. Aggrieved by the same, the present appeal is preferred by the appellant/accused.

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 of the view that there are no valid reasons to interfere with the Judgment of the trial Court in convicting the appellant/accused for the offence under Section 326 IPC.

9. When this Court pointed out that there are no merits in the appeal, learned counsel for the appellant/accused informed that the appellant/accused suffered a substantial period in prison and also submitted that the prosecution has not marked the X-ray report and the stick alleged to have been used by the accused was also not produced before the Court. Learned counsel for the appellant confined his arguments only to the quantum of sentence and prayed this Court to take a lenient view.

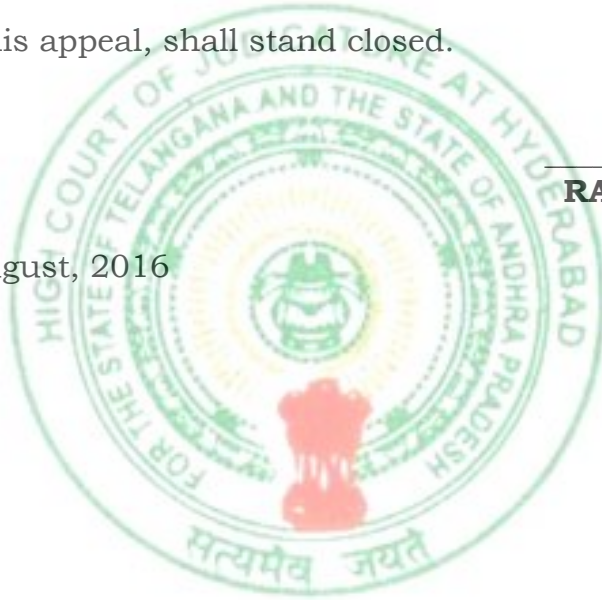
10. Considering the facts and circumstances of the case and the time elapsed, this Court is inclined to reduce the sentence of imprisonment for the offence under Section 326 IPC imposed by the trial Court to that of the period, which the appellant has already undergone.

11. In the result, the Criminal Appeal is partly allowed. The conviction recorded by the learned Special Sessions Judge for Trial of Cases under S.Cs. and S.Ts. (P.O.A) Act-cum-VII Additional District and Sessions Judge, Mahabubnagar, vide judgment, dated 09.02.2007, in S.C.No.116 of 2006, against the appellant/accused for the offence under Section 326 IPC is hereby confirmed. But the sentence of imprisonment imposed by the learned trial Judge for the said offence is reduced to the period already undergone by the accused. 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: 26th August, 2016

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