

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.820 OF 2008

ORDER:

This Criminal Revision Case is filed by the petitioners/A-1 to A-5 under Sections 397 and 401 Cr.P.C. challenging the judgment, dated 11.6.2008, in Criminal Appeal No.70 of 2004 on the file of the II Additional Sessions Judge, Kadapa at Proddatur whereunder and whereby, the learned Sessions Judge dismissed the appeal filed by the petitioners against the judgment, dated 19.7.2004, in Sessions Case No.291 of 2002 on the file of the Assistant Sessions Judge, Proddatur.

2. Case of the prosecution, in brief, is as follows:

A-1 to A-4 are residents of Payasampalli Village and A-5 is a resident of Murarichinthala Village. A-1 is the husband of A-4 and son-in-law of A-5. A-2 is the friend of A-1. A-3 is the person who is working in the house of A-1 and thus, A-1 to A-5 are interested in each other. M.Pandurangareddi (P.W.1) is a resident of Payasampalli Village. One Sreenivasulareddi and one Ramireddi Venkata Narayanareddi are friends of P.W.1. M.Chandra Obulreddi (P.W.2) and M.Bala Narayana Reddi are the cousins of P.W.1. A-1 took loan from one Nagireddi. Regarding the repayment of loan amount by A-1 to Nagireddi, P.W.1 supported Nagireddi against A-1 for which, A-1 grew wild against P.W.1 and bore grudge against him.

It is further alleged in the charge sheet that on 17.5.2002, at about 11:00 P.M., when P.W.1, Sreenivasulareddi and Ramireddi

Venkata Narayanareddi were sleeping at Nagulakatta of Payasampalli Village, A-1 and A-2 went there on a motor cycle. A-2 went to P.W.1, woke him up and informed him that A-1 was calling him and asked him to follow him to his house as A-1 has to talk with him. Accordingly, P.W.1 followed A-1 and A-2 to the house of A-1 and when P.W.1 entered into the house of A-1, A-1 closed the doors of his house from inside, locked the latch, abused him in unparliamentary words, picked up a chappal and reached him and questioned him as to why he supported Nagireddi and beat him with that chappal. When P.W.1 revolted against the acts of A-1, A-1 uttered to hang him with a rope to kill him there itself and asked to bring a rope. On that, A-3, who is working in the house of A-1, brought a rope and tied the rope to the neck of P.W.1. When P.W.1 tried to remove the rope, A-4 and A-5 came there, caught him firmly from back side and bite him on his back. A-3 brought another rope and tied the person of P.W.1. A-1 kicked on the testicles of P.W.1 by tightening the rope tied to his neck. A-1 to A-5 took P.W.1 to a pillar, tied him to it with a rope and beat him for which, he raised cries. Sirigireddi Srinivasulareddi and Ramireddi Venkata Narayana Reddi went to P.W.2 and Mekala Balanarayanareddi, who are cousins of P.W.1, and informed about A-1 and A-2 taking P.W.1 to the house of A-1. On that, P.W.2, Srinivasulareddi, Mekala Chandra Obulareddi and Mekala Balanarayanareddi rushed to the house of A-1, heard the cries of P.W.1, witnessed the occurrence and intervened and rescued P.W.1 by removing the rope tied to his neck. Otherwise, the accused would have killed P.W.1. When P.W.1 was running away from the clutches of the accused, A-1 threatened P.W.1 that he would kill

him later on. Due to fear, P.W.1 concealed in his house for a day and on the next day i.e., on 18.5.2002, he went to the police station and submitted a report. Police registered a case in Crime No.22 of 2002 and investigated into the matter. The Medical Officer, who examined P.W.1, opined that the injuries received by P.W.1 are simple in nature. Therefore, the accused are liable for punishment for their acts. After completion of investigation, police filed charge sheet against A-1 to A-5.

3. On 16.10.2002, the learned Judicial Magistrate of First Class, Kamalapuram committed the case to the Court of Sessions, Kadapa with an opinion that the offence under Section 307 I.P.C. is exclusively triable by the Court of Sessions.

4. The learned Sessions Judge made over the case to the Court of the Assistant Sessions Judge, Proddatur for disposal.

5. On appearance of A-1 to A-5, a charge under Section 323 I.P.C. against A-1 to A-5, a charge under Section 341 I.P.C. against A-1 to A-5, a charge under Section 324 I.P.C. against A-1 and A-5, a charge under Section 355 I.P.C. against A-1 and a charge under Section 307 I.P.C. against A-1 to A-5 were framed, read over and explained to them in Telugu on 11.11.2002 for which, all the accused pleaded not guilty and claimed to be tried.

6. On behalf of the prosecution, P.Ws.1 to 4 were examined and Exs.P-1 to P-3 were marked. On behalf of the accused, no witness was examined and Exs.D-1 and D-2 were marked.

7. After considering both oral and documentary evidence, the trial Court convicted A-1 to A-5 under Section 235(2) Cr.P.C. for

the offence under Section 341 I.P.C. against A-1 to A-5, Section 323 I.P.C. against A-1 and A-3, Section 323 read with 34 I.P.C. against A-4 and A-5, Section 323 I.P.C. against A-4, Section 355 I.P.C. against A-1, A-4 and A-5, Section 307 I.P.C. against A-1 and A-3, Section 307 read with Section 34 I.P.C. against A-4 and A-5 and Section 307 read with 109 I.P.C. against A-2 and accordingly, A-1 to A-5 were sentenced to pay a fine of Rs.100/- each for the offence under Section 341 I.P.C., A-1 and A-3 were sentenced to pay a fine of Rs.100/- each for the offence under Section 323 I.P.C., A-4 and A-5 were sentenced to pay a fine of Rs.100/- each for the offence under Section 323 read with 34 I.P.C., A-4 was sentenced to pay a fine of Rs.100/- for the offence under Section 323 I.P.C., A-1, A-4 and A-5 were sentenced to pay a fine of Rs.500/- each for the offence under Section 355 I.P.C., A-1 and A-3 were sentenced to undergo rigorous imprisonment for a period of five years each and to pay a fine of Rs.100/- each for the offence under Section 307 I.P.C., and A-4 and A-5 were also sentenced to undergo rigorous imprisonment for a period of five years each and to pay a fine of Rs.100/- each for the offence under Section 307 read with 34 I.P.C., A-2 was also sentenced to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.100/- for the offence under Section 307 read with 109 I.P.C. and in default of payment of fine of Rs.100/-, the accused persons shall undergo simple imprisonment for a period of one week each and in default of payment of fine of Rs.500/- each by A-1, A-4 and A-5, they shall undergo simple imprisonment for a period of 35 days each. Aggrieved thereby, the petitioners preferred Criminal Appeal No.70 of 2004 on the file of the II Additional Sessions

Judge, Kadapa at Proddatur and the same was dismissed by the learned Sessions Judge upholding the conviction and sentence of the trial Court. However, the learned Sessions Judge reduced the sentence of imprisonment from five years to three and a half years for the offence under Section 307 I.P.C. to each of the accused. The conviction and sentence imposed on the petitioners for the other offences were not disturbed. Challenging the said judgment, the petitioners filed this Revision Case.

8. Heard and perused the material available on record.

9. P.Ws.1 to 4 were examined on behalf of the prosecution. P.W.1 is the victim, P.W.2 is alleged to be the witness who came to the house of A-1 after the incident, P.W.3 is the Doctor who examined P.W.1 and P.W.4 is the Investigating Officer. A reading of the entire evidence of P.W.1 disclose the fact that when P.W.1 went to the house of A-1 on the basis of the invitation of A-2, a quarrel took place between P.W.1 and A-1 in connection with a statement made by P.W.1 against A-1 regarding repayment of a loan taken by A-1 from one Nagireddi. P.W.1 was assaulted by the accused and simple injuries were caused to him. A-1 also threatened to hang him. From a reading of the entire evidence on record, it is clear that except P.W.1, there is no other witness to support the case of the prosecution to the extent of assault on P.W.1. Even P.W.2 is not a direct eye witness to the attack on P.W.1 by the accused. As per the evidence of the Medical Officer, the injuries sustained by P.W.1 are simple in nature.

10. Considering the facts and circumstances of the case, this Court is of the view that if it is the intention of the petitioners to

commit the murder of P.W.1, they would have committed the same and there is no possibility to P.W.1 to escape from the place of occurrence. Hence, the offence punishable under Section 307 I.P.C. is not proved by the prosecution beyond all reasonable doubt and hence, A-1 & A-3, A-2, and A-4 & A-5 are acquitted under Section 235(1) Cr.P.C. for the offences punishable under Sections 307, 307 read with 109 and 307 read with 34 I.P.C. respectively.

11. As far as the other offences are concerned, the evidence of the prosecution is believable that P.W.1 was taken to the house of A-1 and was attacked there for which, he sustained simple injuries. Considering all these facts, both the Courts below have rightly come to the conclusion that A-1 to A-5 have committed the offence punishable under Section 341 I.P.C., A-1 and A-3 have committed the offence punishable under Section 323 I.P.C., A-4 and A-5 have committed the offence punishable under Section 323 read with 34 I.P.C., A-4 has committed the offence punishable under Section 323 I.P.C., A-1, A-4 and A-5 have committed the offence punishable under Section 355 I.P.C. and accordingly, convicted them as stated supra. Hence, this Court is not inclined to interfere with the conviction imposed by the Courts below for the said offences.

12. In the result, the conviction and sentence imposed against A-1 & A-3, A-2, and A-4 & A-5 in the judgment, dated 19.7.2004, in Sessions Case No.291 of 2002 on the file of the Assistant Sessions Judge, Proddatur, which were modified in the judgment, dated 11.6.2008, in Criminal Appeal No.70 of 2004 on the file of

the II Additional Sessions Judge, Kadapa at Proddatur for the offence punishable under Sections 307, 307 read with 109 and 307 read with 34 I.P.C. respectively are set aside and accordingly, the petitioners/A-1 to A-5 are acquitted of the said offence under Section 235(1) Cr.P.C. However, the conviction and sentence imposed against A-1 to A-5 in the judgment, dated 19.7.2004, in Sessions Case No.291 of 2002 on the file of the Assistant Sessions Judge, Proddatur, which were confirmed in the judgment, dated 11.6.2008, in Criminal Appeal No.70 of 2004 on the file of the II Additional Sessions Judge, Kadapa at Proddatur for the other offences i.e., under Section 341 I.P.C. against A-1 to A-5, Section 323 I.P.C. against A-1 and A-3, Section 323 read with 34 I.P.C. against A-4 and A-5, Section 323 I.P.C. against A-4, Section 355 I.P.C. against A-1, A-4 and A-5 are confirmed.

13. Accordingly, this Criminal Revision Case is partly allowed.

14. Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.

JUSTICE RAJA ELANGO

29.8.2016
AMD

THE HONOURABLE SRI JUSTICE RAJA ELANGO



CRIMINAL REVISION CASE No.820 OF 2008

Date: 29.8.2016

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