

THE HONOURABLE SRI JUSTICE C.PRAVEEN KUMAR
CRIMINAL APPEAL No.344 of 2016

JUDGMENT:

This Criminal Appeal, under Section 378 (3) & (1) of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), is directed against the judgment, dated 21.02.2013, in Sessions Case No.45 of 2012 on the file of the I Additional Assistant Sessions Judge Warangal, whereunder and whereby, the respondents/A.1 to A.4 were found not guilty of the offences punishable under Sections 452, 307 and 324 read with 34 of the Indian Penal Code, 1860 (for short, 'I.P.C') and accordingly they were acquitted.

2. The brief facts that are necessary for disposal of the present appeal may be stated as follows:

On 27.08.2011 at about 01:30 p.m., A.1 to A.4 trespassed into the house of informant by name Bhasker, beat the son and daughter of the informant with an iron pipe and sticks indiscriminately causing injuries to them. On hearing the cries of P.Ws.1 and 2, when the neighbours rushed to the scene of offence, A.1 to A.4 fled away. On the same day at about 2:30 A.M., the informant lodged a report with police, which came to be registered as Crime No.188 of 2011.

3. After investigation, a charge sheet is filed, which was taken on file as P.R.C.No.45 of 2011 and later committed to the Court of Sessions and numbered as S.C.No.45 of 2012.

4. When the charges were framed, read over and explained to A.1 to A.4 in Telugu, they pleaded not guilty and claimed to be tried.

5. To substantiate the charges, prosecution examined P.Ws.1 to 12 and got marked Exs.P.1 to P.9 besides case properties as M.Os.1 and 2.

6. After closure of prosecution evidence, the accused were examined under Section 313 Cr.P.C., for which they denied the incriminating circumstances appearing against them in the evidence of prosecution witnesses. No oral or documentary evidence was adduced on behalf of A.1 to A.4.

7. The trial Court after considering the evidence on record, found the accused not guilty of the offences and accordingly they were acquitted. Challenging the same, the present appeal is preferred by the State.

8. P.W.1 deposed that on the date of incident during night time at about 1:30 A.M., A.1 to A.4 came to his house and broke open the doors of the house and dragged out P.Ws.2 and 3. According to him, A.1 beat P.W.3 with a stick on his head and A.2 to A.4 beat P.W.2 with hands. In the meanwhile, when the neighbours gathered, A.1 to A.4 fled away from the scene of offence. Ex.P.1 is the report.

9. P.W.2 is daughter of P.W.1. In her evidence, she deposed that on the date of incident the accused persons broke open the doors of their house and A.1 to A.4 dragged out P.W.3 from the house. A.1 to A.4 are said to have beat P.W.3 with sticks and A.2 to A.4 beat her with sticks and also P.W.4, who was in the house. A.4 also beat on her left leg. A.1 to A.3 are said to have beat her with sticks.

10. P.W.3 deposed that on the date of incident, A.1 to A.4 trespassed into their house by breaking open the doors and dragged him out. A.1 beat him with a curtain iron pipe on back side of his head and he also beat him with hands on his upper lip, left wrist and all over the body. When P.W.s 1 and 2 tried to rescue him, they were beaten by A.2 with wooden frame so also by A.3 and A.4. A.1 also beat P.W.2 on her left wrist. At that time when P.W.4 came to the spot, A.1 to A.4 beat him with hands. He further states that A.1 also beat him with an

iron rod on his head.

11. P.W.4 deposed that on the date of incident, P.W.2 informed him over telephone about the galata in her house and immediately he rushed to the house of P.Ws.1 to 3 and found A.4 beating P.W.3 with a curtain iron rod and he also saw A.1 beating P.W.2 on his left hand.

A.2 and A.3 dragged P.W.2 out by catching hold of her tuft and then torn her clothes.

12. P.Ws.5, 7, 8 and 10 who were examined as eyewitnesses to the incident did not support the prosecution case.

13. P.W.6 is one of the mediators for the observation of scene of offence and seizure of M.Os.1 and 2. Ex.P.3 is panchanama of the scene. He deposed that he signed Ex.P.3 at the instance of Sub-Inspector of police and that he does not know the contents of Ex.P.3 and that he also does not know as to who prepared the rough sketch.

14. P.W.9 is the Medical Officer, who examined P.Ws.2 and 3, opined that the injuries received by them are simple in nature and those injuries might have been caused by a blunt object.

15. P.W.11 is the first Investigating Officer, who registered Ex.P.1 as a case in Crime No.88 of 2011 under Sections 452, 307 and 324 read with 34 IPC and issued F.I.R. During the course of investigation, he examined and recorded the statements of P.Ws.1 to 3.

16. P.W.12 the Inspector of police, P.S.Mills Colony deposed that on 28.08.2011 he took up investigation from P.W.1, re-examined P.Ws.1 to 3 and visited the scene of offence, drafted rough sketch under the cover of Ex.P.3 and seized M.Os.1 and 2 from the scene of offence in the presence of mediators. He also examined P.Ws.4, 5, 7, 8 and 10 and recorded their statements. Thereafter, he arrested A.1 to A.4 and produced them before the Court for judicial custody and after completion of investigation he filed the charge sheet.

17. As per the evidence of P.W.1, it is clear that A.1 beat P.W.3 with a stick on his head and A.2 to A.4 also beat P.W.2 with hands. But, the Investigating Officer failed to seize the incriminating material, with which, No.1 attacked P.Ws.2 and 3.

18. P.W.2 in her evidence stated that A.1 beat P.W.3 on his head with an iron rod. P.W.4 deposed that A.4 beat P.W.3 with a curtain iron rod. The rod was neither seized from the possession of the accused nor from the scene of offence. As per the evidence of P.W.4, it is clear that A.2 and A.3 dragged out P.W.2 by catching hold of her tuft and torn her clothes. P.W.12 the Investigating Officer, who visited scene of offence and is said to have seized M.Os.1 and 2 in the presence of mediators. But, P.W.6 did not support the seizure. According to P.W.12, three persons, who are immediate neighbours of the scene of offence and whose names were mentioned in F.I.R. were not examined and no explanation was forthcoming as to why those three persons were not examined. Having regard to the facts and circumstances of the case and this being an appeal against acquittal, I see no reason to interfere with the judgment of the trial Court.

19. Accordingly, the Criminal Appeal is dismissed. Miscellaneous petitions, if any, pending in this appeal shall stand closed. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

C.PRAVEEN KUMAR, J

MARCH 23, 2016.

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THE HONOURABLE SRI JUSTICE C.PRAVEEN KUMAR

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Date: 23.03.2016

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