

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.976 of 2006

JUDGMENT:

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1. This Criminal Appeal is filed by the de facto complainant challenging the judgment dated 23.6.2003 passed in C.C.No.262 of 1999 by the IX Metropolitan Magistrate, Hyderabad.

2. The case of the prosecution is as follows:

P.W.1 is the absolute owner of House bearing No.8-1-366/A/72, Janakinagar, Tolichowki, Hyderabad. P.W.1 gave the said house to P.W.3 on rent. On 14.3.1999 at about 7 p.m., all the accused trespassed into the said house, threatened P.W.3 and his family members to vacate the said house as A1 purchased the same from P.W.1. A4 came with a sword. All the accused ransacked the household articles and threw them outside. On the complaint lodged by P.W.1-de facto complainant, a case was registered against A1 to A9. After completion of the investigation, charge sheet was filed against A1 to A9. The learned Magistrate took the same on file as C.C.No.262 of 1999 against A1 to A9 for the offence under Sections 147, 148, 448, 506 r/w 149 IPC, and against A4 for the offence under Section 25(1)(b) of the Arms Act. Subsequently, the case against A2 was abated as he died. The case against A4 to A7 was separated and renumbered as C.C.No.716 of 2002.

3. The trial Court framed charges under Sections 147, 148, 448 and 506 r/w 149 IPC against A1, A3, A8 and A9, read over and explained to them, for which, they pleaded not guilty and claimed to be tried.

4. During the course of trial, P.Ws.1 to 5 were examined and Exs.P1 to P3 and M.O.1 were marked on behalf of the prosecution. Ex.D1 was marked on behalf of the accused.

5. The trial Court after considering the oral and documentary evidence, found A1, A3, A8 and A9 not guilty for the charges levelled against them and accordingly, acquitted them. Aggrieved by the same, the appellant-de facto complainant filed this appeal.

6. It is the case of the appellant that the trial Court has not appreciated the evidence in a proper perspective and that the prosecution has established the guilt of the accused beyond all reasonable doubt and that the evidence of P.Ws.1 to 5 is clinching, trustworthy and their evidence establishes the guilt of the accused.

7. Perused the entire material available on record. The trial Court acquitted respondents 1 to 4-A1, A3, A8 and A9 on the following grounds:

i) Ex.P1 does not disclose the names of all the accused persons except A1.

ii) P.W.1 stated regarding the involvement of A1 in the present crime and he has not stated the names of the other persons, who are accused in the present case.

iii) P.W.3, who is a direct eye witness according to the prosecution, spoke about the presence of one person and also the presence of other accused, without naming them.

iv) P.W.3 stated in his evidence that all the accused came with knives whereas in his 161 Cr.P.C. statement, he did not mention about the knives;

v) The investigating officer failed to examine the neighbours of the scene of offence.

8. On perusal of the entire evidence adduced by the prosecution and the evidence of the investigating officer, it is evident that the police did not ask the witnesses to identify the persons who were in their custody either by way of conducting identification parade or by

directing the witnesses to identify them. Without there being any such identification of the persons, who involved in the present case, the present accused cannot be connected with the crime alleged by the prosecution.

9. Considering the above circumstances and the findings of the trial Court, this Court is not inclined to interfere with the judgment under appeal.

10. Accordingly, the Criminal Appeal is dismissed. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

JUSTICE RAJA ELANGO

Dated:21st July, 2016

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THE HONOURABLE SRI JUSTICE RAJA ELANGO

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