

**HONOURABLE SRI JUSTICE RAJA ELANGO**

**CRIMINAL REVISION CASE No.791 of 2006**

**JUDGMENT:**

Petitioner/accused filed this criminal revision case by invoking the provisions under Sections 397 & 401 of the Criminal Procedure Code, being aggrieved by the judgment, dated 18.04.2006 rendered in Criminal Appeal No.422 of 2004 by the XI Additional District & Sessions Judge, Fast Track Court, Guntur at Tenali, whereby and whereunder the conviction and sentence of the petitioner/accused to undergo Rigorous Imprisonment for a period of three (3) years and to pay a fine of Rs.1,000/- for the offence punishable under Section 436 IPC recorded in judgment, dated 16.08.2004, in S.C.No.134 of 2004, by the Additional Assistant Sessions Judge, Tenali, was confirmed.

2. The brief facts, that are necessary for the disposal of the present Criminal Revision Case, may be stated as follows:

The marriage of the accused with P.W.1 took place about 20 years ago and during their wedlock, P.W.1 was blessed with four daughters. The accused is a masion and he used to spend all his earnings to meet his bad vices and neglecting the wife and children. P.W.1 was also harassed and subjected to cruelty by the accused. So, P.W.1 gave a complaint to the police which was registered as a case in Crime No.79 of 2003 under Section 498-A IPC. On 02.11.2006, the accused, having come to know about the complaint given against him by P.W.1, enraged against her and at 5.00 p.m., he returned back to home in drunken state and abused P.W.1 in vulgar language for giving complaint against him and he set fire to his thatched house. As a result of which the house was burnt. On rising cries, P.W.3 and G. Sankara Rao and villagers came to the scene and extinguished flames. On seeing them, the accused ran away across the fields. The entire household articles in the thatched house of P.W.1 was gutted in fire. On the complaint given by P.W.1 to the police, they registered a case in Crime No.82 of 2003 under Section 436 IPC.

3. On appearance of the accused before the trial Court, the charge under Section 436 IPC was framed against the accused, read over and explained to him, for which, he pleaded not guilty and claimed for trial.

4. To substantiate its case, prosecution got examined PWs.1 to 9 and marked Exs.P-1 to P-5. On behalf of defence, no oral evidence was adduced, but Exs.D-1 and D-2 were marked.

5. After appreciating the oral and documentary evidence available on record, the trial Court found the accused guilty of the offence punishable under Section 436 IPC, and accordingly, convicted and sentenced him as stated above. Aggrieved by the conviction order, the petitioner filed Crl.A.No.422 of 2004. The appellate Court dismissed the appeal by confirming the order of the trial Court, by judgment, dated 18.04.2006. Challenging the same, the present revision case is filed.

6. Heard and perused the entire material available on record.

7. After hearing the arguments of the learned counsel for both sides and after perusing the material available on record, this Court is of the view that there are no reasons to set aside the conviction against the petitioner/accused for the offence under Section 436 IPC. When this Court expressed its opinion that this Court is not inclined to interfere with the concurrent findings of the Courts below, learned counsel for the petitioner submitted that he will confine his arguments only to the extent of the period of imprisonment imposed against the petitioner.

8. Considering the facts and circumstances of the case and also in view of the submission of the learned counsel for the petitioner, this Court is inclined to reduce the sentence of imprisonment imposed against the petitioner for the offence under Section 436 IPC to that of the period, which the appellant has already undergone.

9. In the result, the conviction recorded against the

petitioner/accused by the Additional Assistant Sessions Judge, Tenali, in S.C.No.134 of 2004, vide Judgment, dated 16.08.2004, for the offence under Section 436 IPC, as confirmed by the XI Additional District & Sessions Judge, Fast Track Court, Guntur at Tenali, in CrI.A.No.422 of 2004, vide judgment, dated 18.04.2006, is hereby confirmed. However, the sentence of imprisonment imposed by the trial Court, as confirmed by the appellate Court, is modified to that of the period, which the petitioner has already undergone. However, the sentence of fine imposed by the trial Court shall not be interfered with.

10. The Criminal Revision Case is, accordingly, allowed in part. Consequently, the Miscellaneous Petitions pending, if any, shall stand closed.

**RAJA ELANGO, J**

Date: 2<sup>nd</sup> August, 2016

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