

THE HON' BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1000 of 2007

ORDER:

This Criminal Revision Case is preferred by the petitioner – Accused No.2 against Judgment, dated 19.07.2007, passed in CrI.A.No.39 of 2007 by the VII-Additional Sessions Judge, East Godavari District at Kakinada, whereby the learned Sessions Judge dismissed the appeal by confirming the conviction and sentence imposed by the Judicial Magistrate of First Class, Pithapuram, in CC No.257 of 2003 vide Judgment, dated 19.02.2007, wherein the Magistrate found the petitioner – accused No.2 guilty of the offences punishable under Sections 324 & 325 r/w.34 IPC and sentenced him to undergo rigorous imprisonment for a period six months and to pay a fine of Rs.1,000/- in default to suffer simple imprisonment for three months for the offence under Section 324 IPC and also sentenced him to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.1,000/- in default to suffer simple imprisonment for four months for the offence under Section 325 r/w.34 IPC.

The case of the prosecution, in brief, is as follows:

On 14.07.2003 while the de facto complainant was returning to his house, after watching first show cinema along with his friend, the petitioner-A2, and another accused - A1 came behind and dashed him with a cycle. When the de facto complainant fell down, A1 beat him with a stick on his legs and A2 beat him with a stick on his fore head and on right knee cap and caused multiple injuries. On a report given by the de facto complainant, a case in Crime No.110 of 2003 for the offence under Section 324 r/w.34 IPC was registered and after completion of investigation, charge sheet was filed against the accused.

The Additional Judicial Magistrate of First Class, Pithapuram took cognizance of the case. On appearance of the accused, the charges were read over and explained to him, for which they pleaded not guilty and claimed to be tried.

During the course of trial, the prosecution examined PWs.1 to 6 and marked Exs.P.1 to P.6. No oral or documentary evidence was adduced on behalf of the accused.

On appreciation of oral and documentary evidence, the trial Court found Accused No.1 guilty of the offences under Sections 325 and 324 r/w.34 IPC and found the petitioner – A2 guilty of the offences under Sections 324 and 325 r/w.34 IPC, and accordingly, convicted and sentenced them as stated above. Aggrieved by the same, A1 preferred Crl.A. No.38 of 2007 and the petitioner – A2 preferred Crl.A. No.39 of 2007 before the VII-Additional Sessions Judge, Kakinada. The learned Sessions Judge, after re-appreciation of the evidence, dismissed both the appeals by confirming the conviction and sentence recorded by the trial Court against the accused. Challenging dismissal of Crl.A. No.39 of 2007, the present revision is preferred by the petitioner –accused No.2.

Heard and perused the entire material available on record.

After evaluating the evidence and after considering the material available on record, this Court is of the view that there are no valid reasons to interfere with the concurrent findings of the Courts below in convicting the petitioner –accused No.2 for the offences under Sections 324 and 325 r/ w.34 IPC.

When this Court pointed out that there are no merits in the revision, learned counsel for the petitioner –accused No.2 restricted his

arguments to the quantum of sentence and requested to take a lenient view, while imposing the sentence.

Considering the facts and circumstances of the case and also taking into consideration that the case pertains to the year 2003, this Court is inclined to reduce the sentence of imprisonment imposed by the trial Court on the petitioner – accused No.2, as confirmed by the lower appellate Court, for the above offences, to that of the period, which the petitioner has already undergone.

In the result, the conviction recorded by the Judicial Magistrate of First Class, Pithapuram, vide judgment, dated 19.02.2007, in CC No.257 of 2003, as confirmed by the VII-Additional Sessions Judge, East Godavari at Kakinada, vide judgment, dated 19.07.2007, in CrI.A. No.39 of 2007, against the petitioner – A2 for the offences under Sections 324 and 325 r/w.34 IPC, is hereby confirmed. However, the sentences of imprisonment imposed by the trial Court, as confirmed by the appellate Court, against the petitioner – A2 for the above offences, is modified and reduced to that of the period, which the petitioner has already undergone. The fine amount, imposed against the petitioner, is not interfered with.

Accordingly, the Criminal Revision Case is partly allowed. Consequently, miscellaneous applications, if any pending, shall stand closed.

September 07, 2016.
KTL

RAJA ELANGO, J