

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.1299 OF 2007

ORDER:

This Criminal Revision Case is filed by the petitioner/appellant/A.1 under Sections 397 and 401 Cr.P.C. challenging the judgment, dated 20.09.2007, in Criminal Appeal No.68 of 2006 on the file of IV Additional Sessions Judge (Fast Track Court), Khammam, whereunder and whereby, the learned Sessions Judge, modified the judgment, dated 27.09.2006, in C.C.No.64 of 2004 passed by the Judicial Magistrate of First Class, Special Mobile Court, Khammam and found the petitioner/A.1 guilty of the offence punishable under Section 325 I.P.C. instead of 325 read with 149 IPC and sentenced to undergo rigorous imprisonment for a period of six (06) months and to pay a fine of Rs.500/-, in default to suffer simple imprisonment for two (02) months and acquitted A.2 to A.5.

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

On 08.09.2003 at about 7:00 AM, the petitioner/A.1 along others formed into an unlawful assembly armed with sticks and stones and attacked P.Ws.1 and 5, who are the sons of P.W.2 and caused injuries. When P.W.2 interfered, he was also beaten by them. As P.W.5 sustained grievous injury on his head, he was admitted in Cure Hospital, Khammam, whereas P.Ws.1 and 2 took treatment in Government Hospital, Khammam. The said incident was witnessed by P.Ws.3, 4 and 6. Subsequently, basing on the report given by P.W.1, P.W.11 registered a case in Crime No.90 of 2003 for the offences punishable under Sections 147, 148, 325 and 324 read with 149 IPC. On 12.09.2003 P.W.11 arrested the accused and remanded to judicial custody. After completion of investigation, police filed charge sheet.

3. The learned Magistrate had taken cognizance for the offences

under Sections 147, 148, 325 and 324 read with 149 I.P.C. On appearance of the accused, charges were framed for the offences under Sections 147, 148, 325 and 324 read with 149 I.P.C. read over and explained to them, for which they pleaded not guilty and claimed to be tried.

4. To prove the said charges, prosecution examined P.Ws.1 to 11 and got marked Exs.P.1 to P.16 besides case property M.Os.1 and 2. On behalf of defence, no oral evidence was adduced, but Exs.D.1 to D.3 were got marked.

5. After considering both oral and documentary evidence, the trial Court found A.1 to A.9 guilty and accordingly, convicted them for the offences punishable under Sections 147, 148, 325, and 324 read with 149 I.P.C. Accordingly, A1 to A9 were sentenced to undergo rigorous imprisonment for a period of six (06) months each for the offences punishable under Section 147, 148 and 324 read with Section 149 IPC; and for the offence punishable under Section 325 read with 149 IPC, they were sentenced to pay fine of Rs.500/- each, in default to undergo simple imprisonment for a period of two (02) months each and directed all the sentences shall run concurrently.

6. Aggrieved thereby, the accused preferred appeal viz., Crl.A.No.68 of 2006 and the same was partly allowed setting side the conviction and sentence recorded against A.2 to A.9. However, insofar as A.1 is concerned, the conviction imposed against him for the offences under Sections 147, 148 and 324 read with 149 IPC is set aside and the conviction imposed for the offence under Section 325 read with 149 IPC is modified to one under Section 325 IPC and accordingly, A.1 was sentenced to undergo Rigorous Imprisonment for a period of six (06) months and to pay a fine of Rs.500/-, in default to undergo simple imprisonment for two (02) months. Challenging the said judgment, the petitioner/A.1 filed this Revision Case.

7. Heard and perused the material available on record.
 8. Considering all the facts and circumstances of the case and from the material available on record, the learned Sessions Judge has rightly come to the conclusion that the petitioner/A.1 committed an offence punishable under Section 325 I.P.C. and accordingly, convicted him as stated supra and acquitted A.2 to A.9. Hence, this Court is not inclined to interfere with the conviction imposed by the Court below.
 9. At this stage, learned counsel for the petitioner/A.1 submits that the petitioner has suffered substantial period in prison; and that the crime pertains to the year 2003, he prays to reduce the sentence of imprisonment imposed against the petitioner.
 10. Considering the facts and circumstances of the case and the submission of learned counsel for the petitioner, this Court is inclined to reduce the sentence of imprisonment.
 11. In the result, the conviction imposed against the petitioner/appellant/A.1 in the judgment, dated 20.09.2007, in Criminal Appeal No.68 of 2006 on the file of IV Additional Sessions Judge (Fast Track Court), Khammam for the offence punishable under Section 325 IPC is confirmed. However, the sentence of imprisonment imposed by the first appellate Court for the said offence is reduced to the period which the accused has already undergone, while maintaining the conviction of fine.
 12. Accordingly, this Criminal Revision Case is partly allowed. Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.
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JUSTICE RAJA ELANGO

24.08.2016

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Date: 24.08.2016

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