

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.666 OF 2007

ORDER:

The petitioners have preferred the present criminal revision case by invoking the provisions under Sections 397 and 401 of Code of Criminal Procedure (Cr.P.C.,) being aggrieved by the order, dated 08.05.2007, passed in Criminal Appeal No.84 of 1998, by the Court of the Principal Sessions Judge, West Godavari, at Eluru, whereby the learned Sessions Judge dismissed the appeal by confirming the order dated 23.06.1998, passed in S.C.No.134 of 1991 by the Court of the Assistant Sessions Judge, at Narsapur, whereby the learned Judge convicted A.1 to A.9 for the offences under Sections 148 IPC and 307 IPC read with 149 IPC and in addition to the said offences, A.9 is convicted for the offence under Section 324 IPC. The sentence imposed on the accused is as follows.

(i) A.1, A.2 and A.4 to A.9 to suffer simple imprisonment for a period of one month and to pay a fine of Rs.200/- (Rupees two hundred only), in default, to suffer simple imprisonment for a period of ten days, for the offence under Section 148 IPC;

(ii) A.1 to suffer simple imprisonment for a period of three years and to pay a fine of Rs.500/- (Rupees five hundred only), in default, to suffer simple imprisonment for a period of one month, for the offence under Section 307 read with 149 IPC;

(iii) A.2 and A.4 to A.9 to suffer simple imprisonment for a period of six years and to pay a fine of Rs.1,000/- (Rupees one thousand only), in default, to suffer simple imprisonment for a period of one month, for the offence under Section 307 read with 149 IPC; and

(iv) A.9 to suffer simple imprisonment for a period of six months and to pay a fine of Rs.500/- (Rupees five hundred only), in default, to suffer

simple imprisonment for a period of ten days, for the offence under Section 324 IPC.

Heard and perused the material available on record.

Admittedly the occurrence took place in the year 1990. The case of the prosecution is that the petitioners herein, i.e., A.2 and A.5 to A.9 and other accused, i.e., A.1, A.3 and A.4 entered into quarrel, on which, A.1 to A.9 caused injuries to P.Ws.1 and 2. It is a case and counter case arising out of same transaction. During pendency of the appeal, A.1 and A.4 died and as such, the lower appellate Court dismissed the case against A.1 and A.4 as abated as they died. Except A.3, the remaining accused, i.e., A.2 and A.5 to A.9 are the petitioners herein.

After arguing for sometime, the learned counsel for the petitioners submits that the occurrence took place in the year 1990, i.e., twenty six years back, and that for the last twenty six years, the petitioners have been enjoying the benevolence and now at this stage, sending them to prison would cause prejudice to their lives. He further submits that the petitioners have suffered substantial period in prison. Hence, he prays this Court to show leniency while imposing sentence of imprisonment.

Considering the facts and circumstances of the case and being it is a case and counter case, even though the counter case is ended in acquittal, this Court is inclined to take a lenient view while imposing sentence of imprisonment.

The conviction recorded against the petitioners/A.2 and A.5 to A.9 for the offences under Sections 148 IPC and 307 IPC read with 149 IPC and also the conviction against A.9 for the offence under Section 324 IPC are hereby confirmed. The sentence of imprisonment imposed on the petitioners/A.2 and A.5 to A.9 for the offences under Sections 148 IPC and 307 IPC read with 149 IPC and the sentence of imprisonment imposed on A.9 for the offence under Section 324 IPC are hereby modified to that of

the period, which the petitioners/A.2 and A.5 to A.9 have already undergone. However, the petitioners/A.2 and A.5 to A.9 are directed to pay additional fine of Rs.5,000/- (Rupees five thousand only) each for the offence under Section 307 IPC read with 149 IPC, in default, to suffer simple imprisonment for a period of three months each. The fine amount and the default clauses imposed on the petitioners/A.2 and A.5 to A.9 for the offences under Sections 148 IPC, 307 IPC read with 149 IPC and Section 324 IPC are not interfered with by this Court.

The Criminal Revision Case is accordingly disposed of. Consequently, Miscellaneous Petitions pending, if any, stand dismissed.

30.08.2016
pln



JUSTICE RAJA ELANGO