

ORDER:

The petitioner/complainant has 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 02.11.2015, passed in S.C.No.339 of 2001 by the Court of the Assistant Sessions Judge, Nuzvid, whereby the learned Judge found A.3 and A.4 not guilty, for the offences under Sections 447, 427, 323, 354 IPC read with Section 149 IPC, and as such, acquitted them and that the case against A.1 and A.2 is abated.

Heard and perused the material available on record.

Learned counsel for the *de facto* complainant submits that Court below erred in acquitting A.3 and A.4 on the ground that the evidence of P.Ws.1 and 2 is contradictory and discrepant. He also submits that the Court below erred in drawing an adverse inference from the fact that earlier criminal cases were existing between both the parties.

Before the Court below, on behalf of prosecution, P.Ws.1 to 7 were examined and Exs.P.1 to P.17 and M.O.1 were marked. On behalf of defence, no witness was examined, but Exs.D.1 to D.7 were marked.

The Court below, after careful examination of the witnesses, more particularly the evidence of P.Ws.1 and 2, acquitted A.3 and A.4 and the relevant observations are as follows.

P.Ws.1 and 2 could not identify the persons who came to the site at the time of incident. Though P.W.1 says that at the time of bearing of A.2, she did not cry for help but asked for the reason for beating her. At the time of the incident, her husband was present in the house which goes to show that P.W.2 is not a witness for the alleged incident. P.W.2 also admits that none of the persons came at the time of the incident and chastised the accused or the people that they are doing wrong till the entire incident took place. P.W.7 also admits that none has given any phone call with regard to the alleged incident though the scene of offence is just about half kilo meter from the police station. Hence, in the light of the above discussion, facts and circumstances and material available on record the prosecution miserably failed to prove their case as averred and the written arguments filed by the prosecution is not convincing. Hence, the accused are entitled for acquittal.

This Court is of the view that the Court below has rightly acquitted A.3 and A.4 as their role is not stated by the witnesses concerned. Further, the allegations are mostly against A.1 and A.2 and that the case against A.1 and A.2 is abated. Hence, the Judgment of the Court below is not interfered with by this Court since it is a settled law that when two views are possible on the basis of the evidence adduced, the view in favour of the accused is taken by the Court below, there is nothing to interfere by this Court.

The Criminal Revision Case is accordingly dismissed. Consequently, the miscellaneous petitions filed in this revision, if any, shall stand closed.

JUSTICE RAJA ELANGO

30.06.2016
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