

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.19 of 2007

JUDGMENT:

1. This Criminal Revision Case is filed by the petitioners-A2, A4 to A14 against the judgment, dated 2.1.2007 passed by the VII Additional Sessions Judge, East Godavari District, Kakinada in CrI.A.No.216 of 2006.

2. The case of the prosecution in brief is as follows:

The de facto complainant-K. Satyalakshmi is the owner of a house bearing Dr.No.6-15-5A situated in Peddapuram and she is residing in it. The mother of the de facto complainant viz., K. Mangaraju borrowed some amount from A1. Subsequently, she repaid the said loan in instalments. At the time of lending the money, A1 obtained the signatures of K. Mangaraju on some blank stamped and white papers. A1 did not return those documents even after discharge of the loan amount on the pretext that those papers were misplaced.

K. Mangaraju died on 30.6.2000. Since then, A1 with the help of his associates-A2 to A14 used to demand the de facto complainant to vacate and hand over her building to him towards the amount due to be paid by her mother, for which, the de facto complainant refused. The de facto complainant sold away the building to one D. Venkata Krishna Reddy-L.W.12. At the request of the de facto complainant, she was permitted to stay in the house till suitable accommodation is secured. The said Krishna Reddy also kept his workers in the said building. While so, on 23.10.2000 at about 10.30 p.m., A1 along with his followers, armed with deadly weapons and started parading in front of the house where the de facto complainant is residing in order to create a terror in her mind. Meanwhile, as the police arrived, the accused left that place. Again on 24.10.2000 at 11 a.m., while the de facto complainant, Bullamma and Gangaraju were in the house, all the

accused arming with crow bars and stout sticks came there and forcibly trespassed into the building by breaking open iron latch and its lock with crow-bars and behaved high handedly and also stole away some of the things from the house. Further, the accused threatened the de facto complainant with dire consequences. On the report given by the de facto complainant on the same day, a case in crime No.175 of 2000 was registered. After completion of the investigation, charge sheet was filed. The learned Judicial First Class Magistrate, Peddapuram took cognizance of the charge sheet for the offences punishable under Sections 147, 148, 452, 354, 379 and 506 r/w 149 IPC against A1 to A14 and registered it as P.R.C.No.5 of 2001. Subsequently, the case against A1 was separated and numbered as PRC No.24 of 2005 and the case against A3 was also separated and numbered as P.R.C.No.7 of 2005. After furnishing the documents to the accused in P.R.C.No.5 of 2001, the learned Judicial First Class Magistrate, Peddapuram found that the offence under Section 354 IPC is exclusively triable by the Court of Sessions, and committed the case to the Court of Sessions, East Godavari District, Rajahmundry. The learned Sessions Judge, East Godavari District, Rajahmundry registered P.R.C.No.5 of 2001 as S.C.No.350 of 2005 and made over the same to the Assistant Sessions Judge, Peddapuram, for disposal.

3. The learned Assistant Sessions Judge, Peddapuram, framed charges under Sections 148, 452 and 506 IPC against all the accused; Section 354 IPC against A2 and A4; Section 323 IPC against A2, A4 and A9; Section 380 IPC against A5 to A14 and Section 114 r/w 380 IPC against A2 and A4, read over and explained to the accused, for which they pleaded not guilty and claimed to be tried.

4. During the course of trial, P.Ws. 1 to 9 were examined and Exs.P1 to P8 and M.Os.1 to 6 were marked on behalf of the prosecution. D.W.1 was examined and Exs.D1 to D5 were marked on the defence side.

5. On appreciation of oral and documentary evidence, the trial Court found the petitioners guilty for the following offences, convicted and sentenced them as follows:

- 1) A2 and A4 to A14 are convicted and sentenced to undergo simple imprisonment for a period of one year each for the offence punishable under Section 148 IPC;
- 2) A2 and A4 to A14 are convicted and sentenced to undergo one year simple imprisonment each for the offence punishable under Section 506 IPC;
- 3) A2 and A4 to A14 are convicted and sentenced to undergo simple imprisonment for a period of two years each and to pay a fine of Rs.2,000/- each in default to suffer simple imprisonment for three months each for the offence punishable under Section 452 IPC;
- 4) A6 to A11, A13 and A14 are convicted and sentenced to undergo simple imprisonment for a period of two years each and to pay a fine of Rs.2,000/- each in default to suffer simple imprisonment for three months each for the offence punishable under Section 380 IPC;
- 5) All the sentences of imprisonment shall run concurrently.

However, A2 and A4 were acquitted for the offence under Section 354 IPC; A2, A4, A5 and A9 were acquitted for the offence under Section 323 IPC; A5 and A12 were acquitted for the offence punishable under Section 380 IPC, and A2 and A4 were acquitted for the offence punishable under Sections 114 r/w 380 IPC.

6. Aggrieved by the conviction and sentence imposed by the trial Court against the petitioners-accused for the above offences, the petitioners filed appeal in CrI.A.No.216 of 2006 before the VII Additional Sessions Judge, East Godavari District, Kakinada. The

said appeal was partly allowed setting aside the conviction and sentence imposed by the trial Court against A6 to A11, A13 and A14 for the offence punishable under Section 380 IPC and acquitting them for the said offence. Rest of the judgment of the trial Court with regard to the conviction and sentence of the petitioners for the offence under Sections 148, 452 and 506 IPC was confirmed. Aggrieved by the confirmation of the judgment of the trial Court with regard to the conviction and sentence imposed for the offence under Sections 148, 452 and 506 IPC, the petitioners filed this revision.

7. Heard and perused the material available on record.

8. Learned Counsel for the petitioners submitted that the present case was foisted against the petitioners as a counterblast to the suit filed by A1 in respect of the subject property of the suit, and that the evidence of P.W.1, who admitted that she has disputes with A1, makes it clear that due to the civil disputes, the present case was foisted against the petitioners. He further submitted that the complaint does not disclose the names of the petitioners and that there was delay in giving the report by the de facto complainant and there was no proper explanation for such delay and that the Courts below have not appreciated the evidence in a proper perspective.

9. The learned Additional Public Prosecutor submitted that the judgment under revision does not warrant any interference.

10. On perusal of the oral and documentary evidence, it is obvious that the petitioners and other accused trespassed into the house of P.W.1 and threatened her with dire consequences with a warning to vacate the house and hand over the same to A1. Both the Courts below gave concurrent findings with regard to the commission of offence by the petitioners under Sections 148, 452 and 506 IPC. In the circumstances of the case and in view of the concurrent findings of

both the Courts below as to the guilt of the petitioners-accused for the offence punishable under Sections 148, 452 and 506 IPC, this Court is not inclined to interfere with the conviction rendered by the Courts below against the petitioners-accused for the said offences.

11. At this stage, the learned Counsel for the petitioners-accused while submitting that the petitioners-accused were in prison for a considerable period, prayed for taking a lenient view insofar as the sentence of imprisonment is concerned.

12. Considering the above submission and the time elapsed, this Court is inclined to modify the sentence of imprisonment.

13. In the result, the conviction recorded by the Courts below against the petitioners-A2, A4 to A14 for the offence punishable under Sections 148, 452 and 506 IPC is confirmed. But the sentence of imprisonment imposed by the Courts below for each of the above offences is reduced to that of the period, which the petitioners-A2, A4 to A14 have already undergone, while maintaining the fine and default sentence imposed for the offence punishable under Section 452 IPC.

14. With the above modifications, the Criminal Revision Case is disposed of. Consequently, the miscellaneous petitions, if any pending in this revision, shall stand closed.

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RAJA ELANGO, J

18th July, 2016

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THE HON'BLE SRI JUSTICE RAJA ELANGO

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CRIMINAL REVISION CASE No.19 of 2007

Dated: 18.7.2016

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