

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.774 of 2007

JUDGMENT:

1. This appeal is filed by the State against the Judgment dated 25.7.2005 passed in S.C.No.446 of 2003 by the Additional Assistant Sessions Judge, Kurnool.

2. The case of the prosecution is as follows:

There were ill-feelings between M. Suri(L.W.7) and the accused about damaging electric wire of the latter. Keeping it in mind all the accused formed themselves into an unlawful assembly, armed with natu sticks and attacked M. Ramudu-L.W.1, who is the brother of L.W.7, with a common object to kill him. A2 beat him with a natu stick and caused bleeding injury. A1 hurled a stone on him. When neighbourers gathered, the accused left the scene of offence. Basing on the complaint of L.W.1, a case was registered and investigated into. After completion of the investigation, charge sheet was filed.

3. The learned Judicial Magistrate of First Class, Dhone, took the case on file and committed the same to the Court of Sessions, Kurnool. The learned Sessions Judge made over the same to the learned Assistant Sessions Judge, Kurnool for disposal.

4. The trial Court framed charges under Sections 148, 307 r/w 149 IPC against A1 and A2 and under Sections 148, 307 and 506 r/w 149 IPC against A3 to A5, read over and explained to them, for which they pleaded not guilty and claimed to be tried.

5. During the course of trial, P.Ws.1 to 8 were examined and Exs.P1 to P7 and M.Os.1 and 2 were marked on behalf of the prosecution. Exs.D1 to D5 were marked on behalf of the accused.

6. On appreciation of oral and documentary evidence, the trial Court found the accused not guilty for the above charges levelled against them and acquitted them. Aggrieved by the same, the State filed this appeal.

7. Learned Additional Public Prosecutor submitted that the trial Court has failed to appreciate the evidence of the prosecution witnesses in a proper perspective and that the testimony of the injured is reliable and trustworthy and minor discrepancies are very natural and on that ground, the acquittal of the accused is not sustainable.

8. Learned Counsel for the respondents-accused submitted that the trial Court has appreciated the evidence in a proper perspective and that the judgment under appeal does not warrant any interference by this Court.

9. After evaluating the evidence of the prosecution witnesses, the trial Court acquitted the accused on the following grounds:

- (i) The stick alleged to have been used in the crime was not seized and produced before the Court below and that the weapon used in the crime is not a lethal weapon;
- (ii) It is alleged that A2 beat P.W.1 with a stick. But the injuries are simple in nature.
- (iii) As per the complaint, while the injured was going along with P.Ws.2, 7 and 8, on the date of offence, all the accused developed a galata and beat P.Ws.2, 7 and 8 and when P.W.1 intervened, he received injuries. The accused are five in number whereas the victims are three. But no injury was

found on the body of P.Ws.2, 7 and 8. So, the attack was not proved.

- (iv) Further, it is the case of the prosecution that five persons attacked P.W.1. But the injuries are three in number.
- (v) Furthermore, a case in Crime No.67 of 2003 was registered on the complaint of A4 against the prosecution witnesses and there is a case and counter-case and that the prosecution has not explained as to who are the aggressors of the two parties;
- (vi) Apart from that, to attract an offence under Section 307 IPC, there should be an element of intention to kill. But in the present case, the simple injuries noticed on the body of P.W.1 go to show that there is no such intention.

10. Considering the findings of the trial Court, this Court is of the view that the judgment under appeal does not warrant any interference and hence, the appeal is liable to be dismissed.

11. Accordingly, the Criminal Appeal is dismissed. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

JUSTICE RAJA ELANGO

Dated:22nd September, 2016

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22.9.2016

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