

**THE HONOURABLE SRI JUSTICE RAJA ELANGO**  
**CRIMINAL APPEAL No.1449 OF 2008**

**JUDGMENT:**

This Criminal Appeal is filed by A.1 challenging the judgment of Special Sessions Judge-cum-IV Additional District & Sessions Judge, Guntur dated 17.11.2008 in S.C.No.78/S/2007 whereby the learned Sessions Judge convicted the appellant-A.1 for the offence under Section 324 IPC and sentenced her to undergo S.I. for six months and to pay a fine of Rs.100/-, in default, to undergo S.I. for ten days. She was further convicted for the offence under Section 3(i)(x) of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act') and was sentenced to undergo S.I. for six months and to pay a fine of Rs.100/-, in default, to suffer S.I. for ten days. However, A.2 was acquitted of the said charges.

The case of the prosecution is that P.Ws.1 and 2 are mother and son, who belong to scheduled caste. P.W.3 is wife of P.W.2 and P.W.4 is closely related to P.W.1. In the chit being run by A.1, P.W.2 was subscriber of one of the chits and at the time of paying the prized money, blank signed promotes were obtained by A.1. On account of irregular payments by P.W.2, on 14.11.2006 at about 10.00 a.m., while A.1 was hurling words in insulting manner, P.W.1 interfered and questioned A.1. On that, A.1 pushed P.W.1 and started abusing her and on seeing it, P.W.2 approached her and questioned her and on that, A.1 beat him with a stick and caused injuries on P.W.2 and abused both of them touching their caste. On the complaint lodged by P.W.1, police registered a case and on completion of investigation, laid the charge sheet against A.1 and A.2 for the above said offences.

In order to bring home the guilt of the accused, prosecution examined P.Ws.1 to 10, marked Exs.P.1 to P.7. On behalf of

defence, no oral or documentary evidence was adduced.

After analyzing the evidence brought on record, the trial Court, relying on the evidence of P.Ws.1 to 3, convicted and sentenced the appellant-A.1 as aforementioned. Hence, the appeal by A.1.

Heard the learned counsel for the appellant and learned Public Prosecutor. Perused the material available on record.

The entire case of the prosecution rests on the evidence of P.Ws.1 to 3. It is evident from the deposition of P.Ws.1 to 3 that there was a quarrel on the date of incident between the appellant and P.Ws.1 and 2, but the entire evidence of said witnesses does not reveal any offence attracting the provision under Section 3(1)(x) of the Act. The words that were alleged to have uttered by the appellant also over a quarrel with P.W.2 regarding non-payment of chit amount. It is the evidence of the witnesses that the appellant uttered saying "Paki Lanjakodukulu, Tinesi Tirugutunnaru". The said words even taken to be uttered by the appellant, does not attract the offence under Section 3(1)(x) of the Act. The words are not indicating the caste name of P.Ws.1 and 2 and that the said abusive words are not with an intent to insult them in the circumstances of the case. Hence, the conviction and sentence imposed on the appellant for the offence under Section 3(1)(x) of the Act is liable to be set aside.

As far as the offence under Section 324 IPC is concerned, the evidence of P.Ws.1 to 3 is consistent regarding the attack by A.1 over P.W.2. However, there is a case and counter-case between the accused and P.W.2 regarding chit transaction and that there is dispute regarding the occurrence took place on the date of incident and as admitted by the learned Public Prosecutor, the weapon i.e. stick used in the commission of offence was not

recovered and the injuries received by P.W.2 as per Ex.P.3-wound certificate are simple in nature. Further, the appellant is aged about 66 years. In view of the same, while upholding the conviction under Section 324 IPC, this Court is of the view that a lenience view can be taken in awarding the sentence of imprisonment.

Hence, the conviction and sentence imposed on the appellant by the trial Court for the offence under Section 3(1)(x) of the Act is hereby set aside and she is found not guilty of the said offence and acquitted of the said charge. The fine amount imposed under this count shall be returned to the appellant. The conviction imposed on the appellant for the offence under Section 324 IPC is hereby confirmed, but the sentence of imprisonment is modified to the period already served by her. The fine amount is not interfered with.

Accordingly, the Criminal Appeal is allowed in part. Pending Miscellaneous petitions, if any, shall stand closed.

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JUSTICE RAJA ELANGO

04.08.2016

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