

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL APPEAL No.550 OF 2006

JUDGMENT:

This Criminal Appeal, under Section 378(3) & (1) of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), is filed by the State against the judgment, dated 22.11.2004, in Sessions Case No.423 of 2001 on the file of the Additional Metropolitan Sessions Judge for Trial of Jubilee Hills Car Bomb Blast Case – cum – Additional Family Court, Hyderabad whereunder and whereby, respondent Nos.1 and 2/A-1 and A-2 were found not guilty of the offences punishable under Sections 3, 4 and 5 of the Explosive Substances Act, 1883 and Sections 295, 436 and 427 I.P.C. and acquitted for the said offences under Section 235(1) Cr.P.C.

2. Case of the prosecution, in brief, is as follows:

The accused along with his associates entered into criminal conspiracy to cause destruction of places of worship in furtherance of their design to foment communal trouble. In pursuance of the criminal conspiracy, Khaleeq Ul Zama and Shaik Iqbal decided to plant explosives in the form of Improvised Explosive Devices at the Gospel meeting held at Machilipatnam on 21.5.2000 through A-1 and A-2. Accordingly, A-1 purchased all the required equipment from the shops of Modern Watch Company and also Bharath Electronic Corporation, Vijayawada to make use of them as timer devices with explosive substances and blast the churches and temples and also at the Gospel meeting.

A-1 and A-2 caused explosion at Kodanda Ramalayam, Krishnalanka, Vijayawada at 1.45 hours on 25.5.2000 with the improvised explosive device which was exploded resulting in damage to the floor of the temple. On a written complaint preferred by L.W.1 –

G. Ranga Charyulu, L.W.8 – V.V.Krishna, Head Constable 639 registered the same as F.I.R. in Crime No.69 of 2000 under Section 427 I.P.C. and Section 3 of the Explosive Substances Act.

3. After apprehension of the accused, the learned Magistrate framed the charges under Sections 3, 4 and 5 of the Explosive Substances Act and Sections 295, 436 and 427 I.P.C. against the accused. The charges were read over and explained to them in their language and they pleaded not guilty and claimed to be tried.

4. To substantiate the case of the prosecution, P.W.1 to P.W.16 were examined and Exs.P-1 to P-34 were marked besides case properties – M.Os.1 to 7.

5. After closure of the evidence on the prosecution side, the accused were examined under Section 313 Cr.P.C. They denied the evidence on the side of the prosecution and stated that they were tortured by the police. On behalf of the accused, none was examined and no documents were marked.

6. The learned trial Judge, basing on the evidence adduced and after elaborate discussion, found the accused not guilty for the offences under Sections 3, 4 and 5 of the Explosive Substances Act and Sections 295, 436 and 427 I.P.C. and accordingly, acquitted them. Challenging the same, the State filed the present appeal.

7. Heard and perused the material available on record.

8. The very short point for consideration in this appeal is:

“Whether the prosecution failed to connect the accused with the crime even though it proved that the crime occurred on the place of occurrence?”

9. **POINT:-** The prosecution relied upon the evidence of P.Ws.1 to

5, more particularly, the evidence of P.Ws.3 to 5, who claim that they have identified the accused on the previous day of the occurrence of the incident and also informed that they enquired regarding the availability of watchman in the temple in question. Further, the prosecution also relied upon the identification parade conducted by the Magistrate wherein the said witnesses identified the accused. The learned trial Judge, after perusing the entire evidence, acquitted the accused. Mere identification of the accused persons in the identification parade itself is not a ground to convict the accused. Furthermore, even the said identification was also in connection with the fact that the accused came and enquired about the availability of watchman prior to the occurrence. The prosecution also failed to adduce any evidence regarding the damage caused to the temple. There is no other evidence to prove that the accused are the members of Deendar Anjuman Organisation and they caused explosion in order to insult the religion of the Hindus. Nothing was recovered from the possession of the accused. Hence, this Court is of the view that the said findings are in accordance with law and therefore, the impugned judgment warrants no interference of this Court.

10. Further, in a case of acquittal, if the trial Court consists of two views and basing on one of the views, which is in favour of the accused, acquits the accused, normally, the appellate Court will not interfere with the judgment of the trial Court unless and otherwise, the evidence adduced by the prosecution clinchingly points towards the guilt of the accused. In the present case, the learned trial Judge has considered all aspects and acquitted the accused. Hence, this Court is not inclined to interfere with the judgment of acquittal of the trial Court and the appeal fails and is liable to be dismissed.

11. Accordingly, this Criminal Appeal is dismissed confirming the judgment, dated 22.11.2004, in Sessions Case No.423 of 2001 on the

file of the Additional Metropolitan Sessions Judge for Trial of Jubilee Hills Car Bomb Blast Case – cum – Additional Family Court, Hyderabad.

12. Miscellaneous petitions pending, if any, in this Criminal Appeal shall stand closed.

JUSTICE RAJA ELANGO

27.7.2016
AMD

THE HONOURABLE SRI JUSTICE RAJA ELANGO

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

-
-
-
-
-
-
-
-
-
-
-

-
-
-
-
-
-
-
-
-
-
-
-

CRIMINAL APPEAL No.550 OF 2006

-
-

Date: 27.7.2016

AMD