

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.860 of 2008

JUDGMENT:

The petitioner-A-1 preferred the present Criminal Revision Case by invoking the provisions under Sections 397(1) and 401 of the Code of Criminal Procedure being aggrieved by the judgment, dated 13.06.2008, passed in CrI.A.No.211 of 2006 by the XI Additional District & Sessions Judge (Fast Track Court), Guntur, at Tenali, whereby the learned Sessions Judge dismissed the appeal by confirming the conviction and sentence imposed against the petitioners/A-1 & A-2 by the I Additional Munsif Magistrate, Tenali, in C.C.No.64 of 2005, vide judgment, dated 20.04.2006.

2. The brief facts of the case that are necessary for the disposal of the present criminal revision case are as follows:

On 05.02.2005, the *de facto* complainant (P.W.1) and P.W.2 were proceeding to Railway Hospital to meet Guddati Prakasarao and when they reached near the curve leading to the Railway Hospital, A-1 and A-2 along with A-3 and A-4 came there and demanded P.W.1 to withdraw the previous case pending at Repalle Court and as P.W.1 refused to compromise A-1 to A-3 caught hold of P.W.1 and A-2 stabbed P.W.1 with a knife and caused injuries on the left upper arm and left thigh and A-3 and A-4 prevented P.W.2 from coming rescue to P.W.1 and on hearing the cries, when people started gathering, the accused ran away towards Railway Station and P.Ws.1 and 2 went to the District Hospital and P.W.3 – Doctor got admitted and treated and sent intimation to the police and P.W.4 – Head Constable came to hospital and recorded the

statement of P.W.1, investigated and after receiving Wound Certificate, filed a charge sheet as the accused are guilty of offence under Section 324 read with 34 IPC.

3. When the accused appeared, they were examined under Section 239 Cr.P.C. and as they pleaded not guilty, charge under Section 324 read with 34 IPC was framed.

4. To substantiate its case, the prosecution examined PWs.1 to 4 and got marked Exs.P-1 to P-5. After prosecution evidence, the accused were examined under Section 313 Cr.P.C. On behalf of the accused, no oral or documentary evidence was adduced.

5. The trial Court, after considering the evidence on record, found A-1 and A-2 guilty for the offence under Section 324 read with 34 IPC and they are convicted under Section 248(2) Cr.P.C. and are sentenced to undergo simple imprisonment for a period of three (3) months each for the offence under Section 324 read with 34 IPC. Challenging the same, the petitioners/A-1 & A-2 preferred appeal in CrI.A.No.211 of 2006 before the XI Additional District & Sessions Judge, Guntur at Tenali. The learned Sessions Judge dismissed the appeal by confirming the conviction and sentence imposed against the petitioners/A-1 & A-2 by the trial Court, vide judgment, dated 20.04.2006.

6. Even though the matter is posted under the caption "for dismissal" on 13.10.2016, when the matter is called today, learned counsel for the petitioners called absent and there was no representation on behalf of the petitioners. Heard learned Public Prosecutor for the respondent and perused the material available on record.

7. On perusing the judgments of both the Courts below, this Court is of the view that since the findings of both the Courts below are concurrent in nature, this Court is not inclined to interfere with the factual aspects of the case.

8. When this Court pointed out that there are no merits in the revision, the learned counsel for the petitioners/A-1 & A-2 restricted his arguments to the quantum of sentence and learned counsel for the petitioners submitted that the petitioners have served substantial period in prison and prayed that leniency may be shown while imposing sentence.

9. Considering the facts and circumstances of the case and taking into consideration that the matter is pertaining to the year 2005 and that the petitioners have also served substantial period in prison and also the time elapsed, the sentence of imprisonment imposed against the petitioners/A-1 & A-2 by the trial Court, as confirmed by the lower appellate Court, can be set aside.

10. In the result, the conviction recorded by the I Additional Munsif Magistrate, Tenali, in C.C.No.64 of 2005, vide judgment, dated 20.04.2006, as confirmed by the XI Additional District & Sessions Judge (Fast Track Court), Guntur, at Tenali, in CrI.A.No.211 of 2006, vide judgment, dated 13.06.2008, for the offence under Section 324 read with 34 IPC against petitioners/A-1 & A-2 is confirmed. However, the sentence of imprisonment imposed by the trial Court, as confirmed by the lower appellate Court, against the petitioners/A-1 & A-2 for the above offence is set aside. However, the sentence of fine shall not be interfered with.

11. Accordingly, the Criminal Revision Case is partly allowed. Miscellaneous applications, pending if any, shall stand closed.

RAJA ELANGO, J

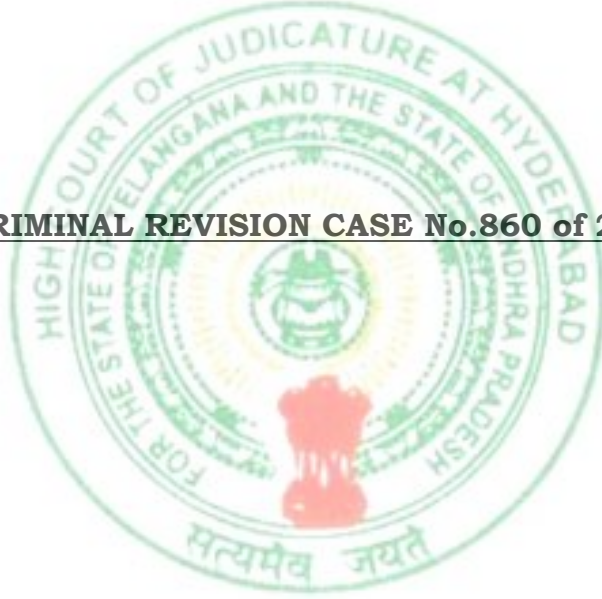
Date: 14th October, 2016

KL



HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.860 of 2008



Date: 14th October, 2016

KL