

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.762 of 2008

JUDGMENT:

Petitioners/accused filed this criminal revision case by invoking the provisions under Sections 397 & 401 of the Criminal Procedure Code, being aggrieved by the judgment, dated 28.05.2008 rendered in Criminal Appeal No.65 of 2006 by the II Additional District & Sessions Judge (Fast Track Court), Srikakulam, whereby and whereunder the conviction and sentence of the petitioners/accused to undergo Rigorous Imprisonment for a period of two (2) years each for the offence punishable under Section 323 IPC and they were also sentenced to pay a fine of Rs.2,000/- each in default to suffer Simple Imprisonment for a period of six (6) months each for the offence punishable under Section 323 IPC and out of the fine amount, Rs.5,000/- was ordered to be paid to P.W.2 as compensation under Section 357(1) Cr.P.C. recorded in judgment, dated 30.05.2006, in S.C.No.81 of 2004, by the Assistant Sessions Judge, Sompeta, Srikakulam, was confirmed.

2. The brief facts, that are necessary for the disposal of the present Criminal Revision Case, may be stated as follows:

The accused are residents of M. Thoturu Village, which is in the outskirts of Ichapuram Town. On 22.07.2003 at about 9.30 p.m., all the accused went to Poorna Cinema Theatre and wanted to get into the theatre without having tickets. Then the gate man P.W.4 obstructed them. Thereafter P.W.1, the owner of said Theatre, reached there and did not allow the accused on which the accused beat P.W.1 and tried to enter into the theatre. At the

relevant time, P.W.2 was passing by. At the request of P.W.1, he came to theatre and questioned the accused for not purchasing the tickets and beating of P.W.1. But the accused did not care P.W.2 even though he revealed his identity. The accused armed with sticks and knives pounced upon P.W.2 and caused serious injuries to him. As a result of the same, P.W.2 fell down unconscious. Then P.W.1 raised cries to call the police. Then the accused ran away from the scene of offence. P.W.2 was shifted to Government Hospital for treatment at 23.00 hours on the same day. P.W.1 gave police report which was registered as a case in Cr.No.23/2003 under Sections 333, 323 and 506(2) read with 34 IPC.

3. On appearance of the accused before the trial Court, the charges under Sections 333, 323 and 506(2) read with 34 IPC were framed against the accused, read over and explained to them in Telugu, for which, they pleaded not guilty and claimed for trial.

4. To substantiate its case, prosecution got examined PWs.1 to 9 and marked Exs.P-1 to P-7 besides M.Os.1 to 4. On behalf of defence, no oral or documentary evidence was adduced.

5. After appreciating the oral and documentary evidence available on record, the trial Court found the accused guilty of the offences punishable under Sections 333 & 323 IPC, and accordingly, convicted and sentenced them as stated above. Aggrieved by the conviction order, the petitioners filed CrI.A.No.65 of 2006. The lower appellate Court dismissed the appeal by confirming the order of the trial Court, by judgment, dated 28.05.2008. Challenging the same, the present revision case is filed.

6. Heard and perused the entire material available on record.

7. After hearing the arguments of the learned counsel for both sides and after perusing the material available on record, this Court is of the view that there are no reasons to set aside the conviction against the petitioners/accused for the offences under Sections 333 & 323 IPC. When this Court expressed its opinion that this Court is not inclined to interfere with the concurrent findings of the Courts below, learned counsel for the petitioners submitted that he will confine his arguments only to the extent of the period of imprisonment imposed against the petitioners.

8. Considering the facts and circumstances of the case and also in view of the submission of the learned counsel for the petitioners, this Court is inclined to reduce the sentence of imprisonment imposed against the petitioners for the offences under Sections 333 & 323 IPC to that of the period, which the appellants have already undergone.

9. In the result, the conviction recorded against the petitioners/accused by the Assistant Sessions Judge, Sompeta, Srikakulam, in S.C.No.81 of 2004, vide Judgment, dated 30.05.2006, for the offences under Sections 333 & 323 IPC, as confirmed by the II Additional District & Sessions Judge (Fast Track Court), Srikakulam, in Crl.A.No.65 of 2006, vide judgment, dated 28.05.2008, is hereby confirmed. However, the sentence of imprisonment imposed by the trial Court, as confirmed by the lower appellate Court, is modified to that of the period, which the petitioners have already undergone. However, the sentence of fine imposed by the trial Court shall not be interfered with.

10. The Criminal Revision Case is, accordingly, allowed in part. Consequently, the Miscellaneous Petitions pending, if any, in the criminal revision case shall stand closed.

RAJA ELANGO, J

Date: 23rd August, 2016

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