

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.697 of 2005

JUDGMENT:

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This Criminal Revision Case is preferred by the petitioner against the Judgment, dated 31.03.2005, passed in CrI.A.No.42 of 2003 by the V-Additional District and Sessions Judge, Visakhapatnam, whereby the learned Sessions Judge confirmed the conviction and sentence imposed by the Additional Judicial Magistrate of First Class, Chodavaram, in CC No.109 of 1999 vide Judgment, dated 10.07.2003.

The case of the prosecution is as follows:

On the intervening night of 20/21.03.1999, at about 0.30 hours, when PW.1 woke up from his kallam, he observed that the accused setting fire to the paddy heap of PW.3. Then, he raised cries and on hearing the same, the accused ran away and PW.2 and some others rushed to the spot and put-off the fire and they came to know about the incident from PW.1. Then, PW.3 kept his paddy heap in the kallam of PW.4, and that LW.7 photographed the scene of offence. The offence took place due to the previous disputes. On the report given by PW.1, a case in Crime No.10 of 1999 for the offence under Section 435 IPC was registered by the Butchiyyapeta Police, and the same was investigated into. After completion of investigation, the police filed charge sheet.

The case was taken on file for the offence under Section 435 IPC. On appearance of the accused, the charges were read over and explained to him in Telugu, for which he pleaded not guilty and claimed to be tried. During the course of trial, the prosecution examined PWs.1 to 10 and marked Exs.P.1 to P.6 besides MOs.1 to 3. No oral or documentary evidence was adduced on behalf of the

accused.

On appreciation of oral and documentary evidence, the trial Court found the petitioner-accused guilty of the offence under Section 435 IPC, and accordingly convicted and sentenced him to suffer simple imprisonment for six (6) months and to pay a fine of Rs.250/- in default to suffer simple imprisonment for one month. Aggrieved by the same, the petitioner – accused preferred appeal in CrI.A. No.42 of 2003 before the V-Additional District and Sessions Judge, Visakhapatnam. The learned Sessions Judge, after re-appreciation of the evidence, dismissed the appeal confirming the conviction and sentence passed by the trial Court against the petitioner. Challenging the same, the present revision is preferred by the petitioner – accused.

Heard and perused the entire material available on record.

After evaluating the evidence and after considering the material available on record, this Court of the view that there are no valid reasons to interfere with the Judgments of the Courts below in convicting the petitioner – accused for the offence punishable under Section 435 IPC.

When this Court pointed out that there are no merits in the revision, learned counsel for the petitioner – accused restricted his arguments to the quantum of sentence, and prayed that as the petitioner has suffered sufficient period in the prison and he is the only bread winner of his family, a lenient view may be taken.

Considering the facts and circumstances of the case and the time elapsed, this Court is inclined to reduce the sentence of imprisonment imposed by the trial Court on the petitioner – accused for the above offence, to that of the period, which the petitioner has already undergone.

In the result, the conviction recorded by the Additional Judicial

Magistrate of First Class, Chodavaram, vide judgment, dated 10.07.2003, in CC No.109 of 1999, as confirmed by the V-Additional District & Sessions Judge, Visakhapatnam, vide judgment, dated 31.03.2005, in Crl.A. No.42 of 2003, for the offence under Section 435 IPC is hereby confirmed. However, the sentences of imprisonment imposed by the trial Court, as confirmed by the appellate Court, against the petitioner under that above head, is reduced to that of the period, which the petitioner has already undergone. The fine amount is not interfered with.

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

RAJA ELANGO, J

August 02, 2016.
KTL