

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.1836 OF 2007

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 12.07.2006, in C.C.No.52 of 2000, on the file of the Additional Judicial Magistrate of First Class, Peddapuram, whereunder and whereby, respondent Nos.1 to 8/A-1 to A-8 were found not guilty for the offences punishable under Sections 447, 427, 326 read with 34 IPC and 1st respondent/A-1 was found not guilty for the offence punishable under Section 326 IPC and acquitted for the said offences under Section 248(1) Cr.P.C.

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

The accused are residents of J.Kothuru Village and A-1 is the then Vice Sarpanch of J.Kothuru Village, A-8 is the wife of A-1, A-6 and A-7 are sisters of A-1, A-2, A-3 and A-5 are brother-in-laws of A-1 and A-4 is relative of A-1, so also P.W.1 is the resident of J.Kothuru Village, P.W.4 is the nephew of P.W.1, P.W.2 is the father of P.W.1, P.W.3 is the brother-in-law of P.W.1. About 10 years ago, P.W.3 came to his mother-in-law's house at J.Kothuru Village and settled in the village and subsequently, P.W.3 purchased 21 cents of dry land from his father-in-law i.e., P.W.2 as a house site and two months prior to the incident, P.W.4 made fencing to the house site and before fixing the fencing, A-1, P.W.6 and P.W.7 and A-4 and some others purchased house sites from Adapa Seetharama Murthy after left the path way about 5 yards and A-1 gave advise to P.W.3 brought Adapa Seetharama Murthy

to the house site, who is also advised to P.W.3 and A-1 to settle the matter through survey. As the matter stood thus, on 27.12.1999 at about 2.00 p.m., Adapa Seetharama Murthy drove his bullock cart to his fields and while returning, the fencing was hanging to the cart, on seeing A-2 came to the house site of P.W.3 and removed the fencing at about 3.00 p.m., on that P.W.3 and P.W.10 brought P.W.5 to the house of P.W.3, and on seeing the fencing P.W.5 called A-1, A-2 and A-3 to settle the matter. In the meanwhile, P.W.4 came there and used filthy language, on that A-2 and A-3 pounced upon P.W.4 and on seeing the galata, P.W.1 tried to separate them. In the meanwhile, A-2 put the stick on the chest of P.W.1 and threw him on the ground and A-1 hacked P.W.1 on his head with a knife and caused bleeding injury. On the same day at 9.30 p.m., P.W.1 along with P.Ws.2 and 3 attended to the police station and gave statement and police registered the same as case in Crime No.97 of 1999 under Sections 447, 427 and 324 read with 34 IPC and investigated into. During the course of investigation, P.W.14 altered the section of law from Section 324 IPC to 326 IPC. Hence, the charge sheet.

3. The case was taken on file under Sections 447, 427, 326 read with 34 IPC. The accused were examined under Section 239 Cr.P.C. Charges under Sections 447, 427, 326 read with 34 IPC against all the accused and Section 326 IPC against A-1, were framed, read over and explained to the accused in Telugu, for which they pleaded not guilty and claimed to be tried.

4. To substantiate the case of the prosecution, P.Ws.1 to 12 were examined and Exs.P-1 to P-12 were marked besides case property – M.O.1.

5. After closure of the evidence on the prosecution side, the accused were examined under Section 313 Cr.P.C., they denied the incriminating evidence and on behalf of the accused, no oral evidence was adduced, but Ex.D-1 was marked.

6. The learned trial Judge, basing on the evidence adduced and after elaborate discussion, found A-1 to A-8 not guilty for the offences under Sections 447, 427, 326 read with 34 IPC and A-1 found not guilty for the offence under Section 326 IPC and accordingly, acquitted them. Challenging the same, the State filed the present appeal.

7. Heard and perused the material available on record.

8. After perusing the judgment of the trial Court and also the material available on record, this Court is of the view that the findings of the learned trial Judge are in accordance with law and the judgment of the trial Court does not suffer with any perversity or illegality, necessitating interference by this Court.

9. Further, in a case of acquittal, if the trial Court considered the 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.

10. Accordingly, this Criminal Appeal is dismissed confirming the judgment, dated 12.07.2006, in C.C.No.52 of 2000,

on the file of the Additional Judicial Magistrate of First Class, Peddapuram. Miscellaneous petitions pending, if any, in this Criminal Appeal shall stand closed.

RAJA ELANGO, J

Date: 8th August, 2016

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