

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1468 of 2006

JUDGMENT:

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1. This Criminal Revision Case is filed by P.W.1 challenging the judgment dated 13.6.2006 passed in C.C.No.274 of 2003 by the VI Additional Chief Metropolitan Magistrate, Hyderabad.

2. The case of the prosecution is as follows:

On 7.1.2003 at 16.30 hours, P.W.1 lodged a complaint alleging that he has a dispute with his neighbour-Eshwaraiah regarding opening of a window towards his house side. In that connection, a civil Suit in O.S.No.3654 of 2002 on the file of IX Judge, City Civil Court, Hyderabad was pending. On 4.11.2002 at about 11 a.m., when he sat in front of his house, Eshwaraiah and his sons Rajeshwar, Ravi and Yadaiah came to him, started abusing him in filthy language. All of a sudden, they started beating him with hands and iron rod and caused bleeding injuries on his left hand palm and other parts of the body. When L.Ws.4 and 5 intervened to pacify the matter, all the accused threatened them. On seeing the same, the nephew of P.W.1 informed the same to the police Kulsumpura. The police rushed to the spot and brought L.W.1 to the police station and sent him to the Hospital. Basing on the statement of P.W.1, a case was registered and investigated into. After completion of the investigation, charge sheet was filed. The learned VI Additional Chief Metropolitan Magistrate, Hyderabad took cognizance of the case for the offence under Sections 326 r/w 34 IPC and numbered it as C.C.No.274 of 2003.

3. The trial Court framed a charge for the offence under Sections 326, r/w 34 IPC, against the accused, read over and explained to them, for which, they pleaded not guilty and claimed to be tried.

4. During the course of trial, P.Ws.1 to 5 were examined and Exs.P1 to P3 were marked on behalf of the prosecution. Ex.D1 was marked on behalf of the accused.

5. On appreciation of both oral and documentary evidence, the trial Court found the accused not guilty for the offence under Sections 326 r/w 34 IPC and acquitted them. Aggrieved by the same, P.W.1 filed the present revision.

6. Heard and perused the material available on record.

7. Learned Counsel for the submitted that that the prosecution has proved the guilt of the accused beyond all reasonable doubt and that the delay in lodging the complaint was also properly explained and that the trial Court has not appreciated the evidence in a proper perspective and that the accused are not entitled for acquittal.

8. As can be seen from the material on record, it is obvious that on 4.11.2002, P.W.5-medical officer received requisition from the police, Kulsumpura Police Station and examined P.W.1. Though written requisition was given by the police, no case was registered against the accused and P.W.1 also did not get his statement recorded on 4.11.2002. He lodged the complaint on 7.1.2003. There was no proper explanation from P.W.1 for not lodging any complaint on 4.11.2002.

9. The trial Court acquitted the accused on the following grounds:

- 1) There is inordinate delay in lodging the complaint and the said delay was not properly explained;
- 2) Even though it is stated that the case was initially registered for the offence under Section 323 IPC and Section 20(b) of the City Police Act, but the same was cancelled by the investigating officer and a fresh case was registered for the offence under Section 326 r/w 34 IPC.
- 3) The investigation Officer categorically admitted that as per the Police Manual, once a case is registered, it cannot be

cancelled. There was no proper explanation by the investigating Officer for cancellation of the earlier case.

- 4) The evidence of P.W.1 goes to show that he has not lodged the complaint immediately after the occurrence. He took treatment in the hospital and after two months, he lodged the complaint. There was no proper explanation for such delay.

Considering the above findings of the trial Court in the judgment under revision and the facts and circumstances of the case, this Court is of the view that the judgment under revision does not warrant any interference by this Court.

10. Accordingly, the Criminal Revision Case is dismissed. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

JUSTICE RAJA ELANGO

Dated: 26th July, 2016

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THE HONOURABLE SRI JUSTICE RAJA ELANGO

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