

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1616 of 2006

JUDGMENT:

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1. This Criminal Revision Case is filed by the accused challenging the judgment dated 14.9.2006 passed in CrI.A.No.256 of 2005 by the II Additional District & Sessions Judge, Madanapalle.

2. The case of the prosecution is as follows:

There were disputes between the de facto complainant and the accused in connection with chit transactions and due to such disputes, on 19.11.2004 at about 7.15 am., the accused beat the de facto complainant with a stick on his right hand fingers resulting in fracture to his right hand middle finger and caused injury to the right hand ring finger and that the said incident was witnessed by P.W.3 and another. P.W.2, who is the father of the de facto complainant, admitted the de facto complainant in the Government Hospital, Punganur for treatment. On the basis of the hospital intimation, P.W.6 recorded the statement of the de facto- complainant and registered a case against the petitioner and took up investigation. After completion of the investigation, charge sheet was filed against the petitioner for the offence punishable under Section 326 IPC. The case was taken on file as C.C.No.363 of 2004 against the accused by the Judicial Magistrate of First Class, Punganur.

3. The learned Magistrate framed a charge against the petitioner-accused for the offence under Section 326 IPC, read over and explained to him in Telugu, for which he pleaded not guilty and claimed to be tried.

4. During the course of trial, P.Ws.1 to 6 were examined and Exs.P1 to P7 and M.O1 were marked on behalf of the prosecution. No oral or documentary evidence was adduced on behalf of the accused.

5. On appreciation of both oral and documentary evidence, the trial Court found the petitioner-accused guilty for the offence punishable under Section 326 IPC, convicted and sentenced him to suffer simple imprisonment for a period of six months and to pay a fine of Rs.100/- in default to suffer simple imprisonment for a period of one week. Aggrieved by the same, the petitioner-accused filed appeal i.e., CrI.A.No.256 of 2005 before the II Additional District & Sessions Judge, Chittoor at Madanapalle. The learned Additional District & Sessions Judge after re-appreciating the evidence, allowed the appeal in part modifying the judgment of the trial Court and converting the offence from Section 326 IPC to Section 324 IPC and convicting and sentencing the petitioner to suffer simple imprisonment for a period of four months and to pay the fine of Rs.100/- in default to suffer simple imprisonment for a period of one week. Aggrieved by the conviction and sentence imposed by the learned Additional District & Sessions Judge, the petitioner-accused filed this revision.

6. Heard and perused the material available on record.

7. Learned Counsel for the petitioner submitted that both the Courts below have not appreciated the evidence in a proper perspective and that there are several contradictions in the evidence of the prosecution witnesses and their evidence is not consistent and corroborative and that the medical evidence also does not support the case of the prosecution and that the Courts below ought to have extended benefit of doubt in favour of the petitioner.

8. Learned Additional Prosecutor submitted that the prosecution established the guilt of the petitioner-accused and that the lower appellate Court took a lenient view and that the judgment of the lower appellate Court does not warrant any interference by this Court.

9. On perusal of the material available on record, it is obvious that

the de facto complainant-victim was examined as P.W.1. P.W.3 is the eye witness to the incident. The evidence of P.Ws.1 and 3 coupled with the evidence of P.W.5-Medical Officer establishes the case of the prosecution. Both the Courts below gave concurrent findings with regard to the occurrence. However, as the prosecution failed to produce the x-ray of the right hand middle finger of P.W.1, to which fracture was alleged to have been caused, the lower appellate Court modified the penal provision from 326 IPC to 324 IPC and sentenced the accused to undergo simple imprisonment for a period of four months and to pay fine of Rs.100/- in default to suffer simple imprisonment for a period of one week.

10. In view of the concurrent findings of both the Courts below with regard to the occurrence and in view of the findings of the lower appellate Court as to the injury sustained by the victim, this Court is not inclined to interfere with the conviction recorded by the lower appellate Court.

11. At this stage, the learned Counsel for the petitioner submitted that the petitioner is the sole bread-winner of his family and he has to look after his parents, wife and children and therefore, a lenient view may be taken.

12. Considering the facts and circumstances of the case and the submissions made by the learned Counsel for the petitioner, this Court is inclined to modify the sentence of imprisonment imposed by the lower appellate Court against the petitioner-accused.

13. In the result, the conviction recorded by the learned II Additional District & Sessions Judge, Chittoor, Madanapalle, against the petitioner-accused for the offence under Section 324 IPC in CrI.A.No.256 of 2005 vide judgment dated 14.9.2006 is confirmed. However, the sentence of four months simple imprisonment imposed

for the said offence is modified to that of the period, which the petitioner-accused has already undergone, while confirming the fine and default sentence imposed for the said offence.

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

JUSTICE RAJA ELANGO

Dated:26th July, 2016
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THE HONOURABLE SRI JUSTICE RAJA ELANGO

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