

HONOURABLE SRI JUSTICE M.S.K.JAISWAL

CRL.R.C.No.502 of 2008

JUDGMENT:

This Criminal Revision Case is preferred by Accused No.1 against the judgment of the learned II-Additional District and Sessions Judge, East Godavari District at Amalapuram, passed in Crl.A.No.204 of 2006 dated 26.03.2008.

It is the case of the prosecution that A-1 is the son of A-2. There are property disputes between the accused and P.W.1. On 31.08.2005 at about 1.30 P.M. when P.W.1 and his wife (P.W.2) were attending fencing work at their coconut plants, A-1 and A-2 attacked P.W.1 with a crowbar and a stick; that A-1 beat P.W.1 with a crowbar on his head and caused bleeding injury and that A-2 beat P.W.1 with a stick on his waist and caused contusions. When P.W.2 came to the rescue of P.W.1, A-1 beat her with a crowbar, as a result of which P.W.2 suffered a fracture. On the report given by P.W.1, P.W.8-Sub Inspector of Police, Uppalaguptham Police Station, registered a case in Crime No.69 of 2005 under Sections 307, 324 read with Section 34 I.P.C.

The revision petitioner is Accused No.1. He along with his father-A-2 was tried for the offences under Section 307 and 326 I.P.C. in S.C.No.22 of 2006. During the course of trial, the prosecution has examined P.Ws.1 to 8 and got marked Exs.P1 to P7 and M.O.1 to prove the guilt of the accused. On behalf of the accused Exs.D1 and D2 were marked. The trial Court, on appraisal of entire evidence, both oral and documentary, by judgment dated 25.08.2006, found the revision petitioner-A1 guilty of the offence under Section 307 I.P.C.; A-2 guilty of the offence under Section 324 I.P.C. and accordingly convicted and sentenced

the revision petitioner-A1 to undergo simple imprisonment for a period of five years and to pay fine of Rs.1000/-, in default, to suffer simple imprisonment for a period of one month for the offence under Section 307 I.P.C. A-2 was convicted and sentenced to undergo simple imprisonment for a period of two years and to pay fine of Rs.500/-, in default, to suffer simple imprisonment for a period of one month for the offence under Section 324 I.P.C.

Aggrieved by the aforesaid conviction and sentence, the revision petitioner-A1 preferred CrI.A.No.204 of 2006 and the learned II- Additional District and Sessions Judge, Amalapuram, by judgment dated 26.03.2008, found the revision petitioner-A1 guilty of the offence under Section 324 I.P.C. instead of under Section 307 I.P.C. and accordingly convicted and sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for a period of two months. However, A-2 was found not guilty of the offence under Section 324 I.P.C. and accordingly, he was acquitted of the said offence. Aggrieved by the conviction and sentence, the revision petitioner-A1 preferred this criminal revision.

Learned Counsel for the revision petitioner-A1 submits that the Courts below erred in placing reliance on the highly interested and discrepant testimony of P.Ws.1 to 3 and erroneously convicted the revision petitioner-A1. He further submits that the evidence on record does not establish the guilt of the revision petitioner-A1 beyond all reasonable doubt. He further submits that, in any event, since the relationship between the parties is cordial at present, a lenient view may be taken in so far as the sentence of imprisonment imposed on the revision petitioner-A1 is

concerned.

On the other hand, the learned Public Prosecutor representing the State contended that the appellate Court, after re-assessing the entire evidence on record, has rightly convicted and sentenced the revision petitioner-A1 for the offence under Section 324 I.P.C. and as such no interference is called for by this Court.

Now the point that arises for consideration is as to whether the prosecution could able to prove its case beyond all reasonable doubt so as to sustain the conviction and sentence as imposed by the Courts below?

POINT:: Perused the entire oral and documentary evidence available on record. The injured-P.Ws.1 and 2 are husband and wife. P.W.3 is the younger brother of P.W.1. The evidence of P.Ws.1 to 3 is material in so far as the incident proper is concerned. There are property disputes between the accused and P.W.1.

The evidence of P.Ws.1 and 2, who are none other than the injured, is to the effect that on 31.08.2005 while they were attending fencing work to the land purchased by them, the revision petitioner-A1 and his father (A-2) came upon them abusing in filthy language and that the revision petitioner-A1 beat P.W.1 with an iron crowbar on his head, due to which he sustained injury and that A-2 beat him with a stick on his back and when P.W.2 tried to rescue P.W.1, the revision petitioner-A1 beat her with a crow-bar on her right shoulder, as a result of which, P.W.2 sustained fracture on her right hand. The evidence of P.W.3 is that on hearing the cries of P.W.2, he went there and found the revision petitioner-A1 attacking P.W.1 with a crow-bar, due to which he sustained an injury. The evidence of P.Ws.1 to 3 coupled with the

evidence of P.W.7-Doctor amply establish the fact that P.W.1 had received a lacerated injury on his head by the revision petitioner-A1 and as the said injury is simple in nature, the offence proved would be the one punishable under Section 324 I.P.C.

On perusal of the entire evidence on record, this Court is of the view that the appellate Court has given sufficient and cogent reasons in convicting the revision petitioner-A1 for the offence under Section 324 I.P.C. Therefore, no interference is warranted by this Court as far as conviction is concerned.

With regard to the quantum of sentence, the learned Counsel for the revision petitioner-A1 submits that the revision petitioner-A1 is the son of A-2, who is none other than the own brother of P.W.5, and after this incident, the relationship between the revision petitioner-A1 and P.W.1 is cordial. He further submits that in all earnestness the revision petitioner-A1 felt remorseful over what had happened to P.W.1 on account of this incident and that he was in judicial custody for about 15 days as an under trial prisoner and, therefore, he requested this Court to take a lenient view.

Having regard to the aforesaid submissions of the learned Counsel for the revision petitioner, this Court is of the view that it is suffice to reduce the sentence of rigorous imprisonment of one year, as was imposed by the appellate Court for the offence under Section 324 I.P.C., to that of the period already undergone by the revision petitioner-A1, while maintaining the sentence of fine of Rs.5,000/- imposed against him. In addition to the fine amount already imposed, an additional fine of Rs.10,000/- (Rupees Ten Thousands only) shall be imposed against the revision petitioner-A1 so as to meet the ends of justice, in default, to suffer simple imprisonment for a period of three months. The fine amount of

Rs.10,000/-, to be paid by the revision petitioner-A1, shall be given to P.W.1 towards compensation in addition to Rs.3,000/- already granted.

With the above modification in the sentence of imprisonment, the Criminal Revision Case is dismissed.

Miscellaneous petitions, if any, pending shall stand closed.

M.S.K.JAISWAL, J

03-02-2016

Gsn