

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.100 OF 2009

JUDGMENT:

1. This revision is filed by the Complainants against the Judgment dated 26.11.2008 passed by the Special Judge-cum-IV Additional District & Sessions Judge, Chittoor, at Tirupati in Special S.C.No.1 of 2007.

2. Brief facts of the case are as follows:

A1 to A9 in the above Sessions Case are residents of Ravillavaripalle. A10 to A12 are the residents of Bramhanakalva Madigawada of Ramachandrapuram Mandal. A1 to A9 are closely related and they are Kammas by caste. A10 to A12 are Madigas by caste. They are working under A1 as labourers. P.W.1-Chinnaswamy is a resident of Bramhanakalva Madigawada of Ramachandrapuram. He is Adi Andhra, which is a Scheduled caste. P.W.1 gave his daughter-P.W.5 in marriage to Muniswamy-A10 about two years four months prior to the present complaint. A10 used to beat his wife-P.W.5 now and then. On 23.1.1995 A10, who is the husband of P.W.5 took her to Tirupati. On the way, he cut Mangala Suthram rope of his wife forcibly and instructed her not to meet him in future. On that, P.W.1 requested Ramagopal Naidu, who is the Sarpanch of the village to conduct panchayat. On 24.1.1995 at about 6 p.m., Ramagopal Naidu secured the presence of A10 and P.W.5 and conducted panchayat and in the said panchayat, A10 refused to take back P.W.5. On 25.1.1995 at about 9 a.m., P.W.1 along with his daughter-P.W.5, his younger brother-P.W.3, his son-P.W.4 and his elder brother Pedda Munaswamy was going to Ramachandrapuram Police station to lodge a complaint against A10, on the way near Mango Garden, P.W.1 met Ramagopal Naidu and while both of them were discussing about the result

of the panchayat held on 24.1.1995, at that time, A1, A2 and A3 threatened P.W.1 and abused him as Madiga Naa Kodakallara and beat them. Then, P.W.3 beat A1 with a Chappal. A1 and his followers challenged P.W.1 and his followers that one day or the other they would face the consequences. Due to the above grudge, on 27.1.1995 at about 9 a.m., the accused formed themselves into an unlawful assembly, armed with crow bars and knives and attacked the houses of P.Ws.1, 2, 4, 5 and 6 with common object, removed the doors of the houses, cut the usufructs of the trees and damaged the vessels during the absence of male members in the houses. On the report given by P.W.1, a case was registered and investigated into. After completion of the investigation, charge sheet was filed.

3. The learned Judicial Magistrate of First Class, Puttur took the case on file against the accused for the offence under Sections 147, 148, 323, 427 r/w 149 IPC and Section 3 (1)(x) of the SCs & STs (POA) Act, and committed the case to the learned Special Sessions Judge, Tirupati.

4. During the pendency of the Sessions case, A2 died and therefore, the case against him was abated. The case against A4 to A8 and A10 was split up.

5. The trial Court framed charges under Sections 147, 427, 323 r/w 149 IPC against A1, A3, A9, A11 and A12 and Section 3(1)(x) of SCs & STs (POA) Act, 1989 against A1, A3 and A9, read over and explained to them, for which they pleaded not guilty and claimed to be tried.

6. During the course of trial, P.Ws.1 to 7 were examined and Exs.P1 to P8 were marked on behalf of the prosecution. Exs.D1 to D3 were marked on behalf of the accused.

7. On appreciation of oral and documentary evidence, the trial Court found A1, A3, A9, A11 and A12 not guilty for the charges levelled against them and acquitted them. Aggrieved by the same, the complainants filed this revision.

8. Learned Counsel for the petitioners submitted that the accused created a terror in the Harijanwada after the incident on 25.1.1995 by demolishing the huts of P.W.1 and other Harijans on 26.1.1995 and that the entire male folk of Harijanwada ran to Tirupathi and hide themselves from the accused and that the trial Court has erred in ignoring the evidence of the victims and that the trial Court has erred in rejecting the case of the prosecution.

9. Learned Counsel appearing for the respondents-accused submitted that the trial Court has appreciated the evidence in a proper perspective and that the judgment of the trial Court does not warrant any interference by this Court.

10. It is the case of the petitioners that the accused attacked P.W.1, who is a member of SC community, insulted and humiliated him. First of all, the prosecution has to establish that P.W.1 is a member of the Scheduled Caste. But there is no proof to that effect. The prosecution has failed to produce the caste certificate of P.W.1 and others. Even the prosecution failed to examine the M.R.O concerned to prove the caste of P.W.1 and others. Therefore, the trial Court disbelieved the version of P.Ws.1 to 6 that they belong to scheduled caste.

11. It is the case of the petitioners that on 25.1.1995 at about 9 a.m., while P.Ws.1 and 3 to 5 were going to the police station to lodge a complaint against A10, the accused scolded P.W.1 as Madiga Naa

Kodakallara and beat him. P.W.1 in his evidence stated that A1, A3 and A9 scolded them as Madiga Kodakallara Mimmalni Emi Chestamo Chooru. P.W.3 stated that the above accused scolded them as Madiga Kodakallara Meeku Evaru Antha Peggu Itchinadhi. P.W.4 deposed that the above accused and about 20 persons attacked them and among them, A1 and A3 and some others scolded them as Madiga Lanjakodakallara, Mimmalanu Kadani Police Station ki Elavalatharu. According to P.W.1, P.W.5, who is none than the daughter of P.W.1 was also present at that time. But P.W.5 did not speak anything about the alleged abusive words. In the complaint, no specific allegations were made as to who used abusive words against P.W.1 and others. The evidence of P.Ws.1 to 4 is not consistent and corroborative. They stated the abusive words alleged to have been used by the accused, in different ways.

12. Further, P.W.1 stated in his evidence that while he was proceeding to the police station, he was attacked by he accused. But he has nowhere stated either in the complaint or in the statement that the other witnesses also followed him. Subsequently, P.W.1 stated that the other witnesses followed him.

13. It is the case of the prosecution that on 25.1.1995 P.Ws.1, 3 and 4 went to Tirupati. P.W.2 in her evidence stated that on 27.1.1995, about 100 persons of Ravillavaripalle village came and attacked their houses. P.W.5 in her evidence stated that the accused beat P.W.1 and others and on the next day morning at 6 a.m., all the accused and 10 other persons came to their houses and damaged the house hold articles. P.W.6 has not stated as to the incident that took place on 27.1.1995. Except the interested testimony of P.Ws.2 and 5, there is no independent witness to

establish the attack on the houses of P.W.1 and others on 27.1.1995.

Further, the evidence of P.W.2 and 5 is not consistent and corroborative.

14. In the above circumstances, the trial Court disbelieved the case of the prosecution and acquitted the accused. After perusing the findings of the trial Court, this Court is of the view that the judgment of the trial Court does not warrant any interference by this Court.

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

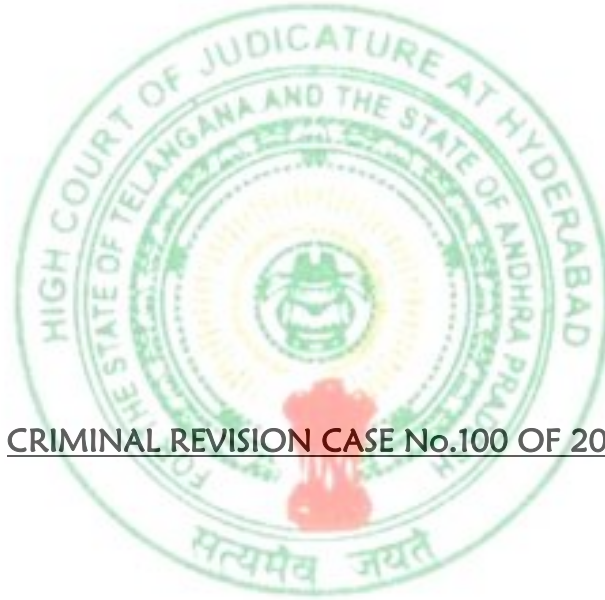
Date : 28.9.2016

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JUSTICE RAJA ELANGO



HONOURABLE SRI JUSTICE RAJA ELANGO



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DATED 28.9.2016

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