

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1416 OF 2008

JUDGMENT:

1. This revision is filed by the petitioner-A1 against the Judgment dated 16.9.2008 passed by the I Additional District & Sessions Judge, Srikakulam, in CrI.A.No.66 of 2007.

2. Brief facts of the case are as follows:

On 5.2.2003 at about 5.30 p.m., P.W.1-Bammidi Thejeswara Rao (P.W.1) took his cattle to the river-bund near to his mango tope situated in the outskirts of Pedda-Boddepalli village and at that time, A1 to A3 came there arming with sticks, abused P.W.1 on the pretext that the cattle of P.W.1 have grazed away the crop in their land. While P.W.1 was taking away his cattle from there to avoid dispute with accused, the accused attacked and beat P.W.1 with sticks. A1 beat P.W.1 with hands and bite the right eye-brow and when P.W.1 fell down, A2 and A3 beat P.W.1 with stout sticks on his person indiscriminately, as a result of which, P.W.1 sustained injuries on his back, left knee and chest. At that time, P.W.2 came to the rescue of P.W.1 and on seeing him, A1 to A3 ran away from there. 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, Amadalavalasa took the case on file as C.C.No.80 of 2003 for the offence under Sections 325 and 324 r/w 34 IPC. The learned Magistrate framed charge under Section 325 IPC against A1 and a charge under Section 324 IPC against A2 and A3, 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 P5 and M.Os.1 and 2 were marked on behalf of the prosecution. Ex.D1 was marked on behalf of the accused.

5. On appreciation of oral and documentary evidence, the trial Court having found A2 and A3 not guilty for the charge under Section 324 IPC, acquitted them. However, the trial Court found A1 guilty for the charge under Section 325 IPC, convicted and sentenced him to undergo simple imprisonment for a period of six months and to pay a fine of Rs.2,000/- in default to suffer simple imprisonment for one month. Aggrieved by the same, the petitioner-A1 filed appeal in Crl.A.No.66 of 2007 before the I Additional District & Sessions Judge, Srikakulam. The said appeal was dismissed. Hence, the petitioner filed this revision.

6. Learned Counsel for the petitioner submitted that the Courts below failed to appreciate the evidence in a proper perspective and that the Courts below disbelieved the evidence of P.Ws.1 and 2 and acquitted A2 and A3. But the trial Court accepted their evidence against A1 and that the approach of the Courts below without considering the evidence of P.Ws. 1 and 2 in its entirety, is not sustainable.

7. Learned Additional Public Prosecutor submitted that both the Courts below appreciated the evidence in a proper perspective and that the judgments of the Courts below do not warrant any interference by this Court.

8. From the evidence on record, it is evident that there was enmity between P.W.1 and the accused regarding their personal affairs. The evidence of P.Ws.1 to 3 coupled with the medical evidence establishes that the petitioner-A1 caused grievous injury to P.W.1. After appreciating the

evidence on record, both the Courts below gave concurrent findings. In view of the same, this Court is not inclined to interfere with the judgment under revision.

9. At this stage, the learned Counsel for the petitioner submitted that the petitioner was in prison for a considerable period and therefore, a lenient view may be taken.

10. Considering the facts and circumstances of the case and the time elapsed, this Court is inclined to modify the sentence of imprisonment imposed by the Courts below against the petitioner-accused.

11. In the result, the conviction recorded by the Courts below against the petitioner-accused for the offence under Section 325 IPC is confirmed. However, the period of sentence of six months simple imprisonment imposed by the Courts below is modified to that of the period, which the petitioner-A1 has already undergone, while confirming the sentence of fine with default sentence.

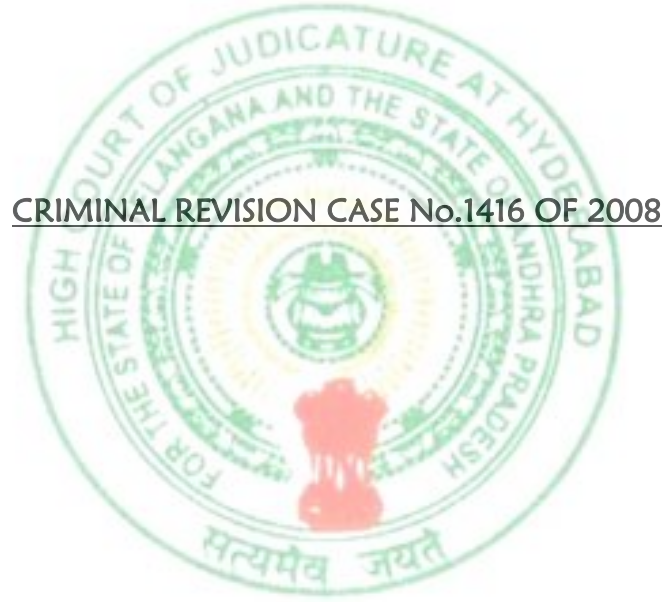
12. Accordingly, the Criminal Revision case is partly allowed. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Date : 28.9.2016

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DATED 28.9.2016

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