

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL APPEAL No.1731 OF 2007
AND
TRANSFER CRIMINAL APPEAL No.1052 OF 2013

COMMON JUDGMENT:

Criminal Appeal No.1731 of 2007, under Section 377(1) of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), is filed by the State against the judgment, dated 27.1.2006, in Sessions Case No.122 of 2003 on the file of the Assistant Sessions Judge, Vizianagaram whereunder and whereby, the accused was found guilty for the offences under Sections 326 and 448 I.P.C. and accordingly, convicted under Section 235(2) Cr.P.C. and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.5,000/- for the offence under Section 326 I.P.C. and in default of payment of fine, to undergo simple imprisonment for a period of six months; and to pay additional fine of Rs.1,000/- for the offence under Section 448 I.P.C., and in default of payment of fine, to undergo simple imprisonment for a period of two months.

2. Challenging the very same judgment, the accused filed Criminal Appeal No.15 of 2006 before the Sessions Judge, Vizianagaram. On 28.11.2012, this Court ordered Criminal Appeal No.15 of 2006 to be transferred to this Court for hearing along with Criminal Appeal No.1731 of 2007. Hence, both the cases are heard together and disposed of by way of this common judgment.

3. Case of the prosecution is as follows:

The accused bore grudge against Ravada Sasikala on her reluctance to marry him. Having studied Intermediate, she went to Amalapuram of East Godavari District with her brother, who is working as Assistant Professor in B.V.C.Engineering College, Vodalacheruvu,

and staying with him. About a week days prior to the occurrence, both Sasikala and her brother visited the native place Sompuram during Summer Vacation. About two years ago, the elders on behalf of the accused proposed the marriage alliance of the accused with Sasikala for which, she and her parents expressed unwillingness. Since then, the accused bore grudge on her. While so, on 24.5.2003, at 7:30 A.M., when Sasikala was present in the house having took head bath, rounded the towel around the head to dry up the hair, at that time, the accused trespassed into her house armed with an acid bottle and poured acid over her head. Her brother and parents protested the same. The acid was thrown on them also and all of them sustained burn injuries including their wearing apparels. On their alarm, the neighbours rushed to their house and found them injured. They shifted them to K.G.H., Visakhapatnam where police recorded her statement and obtained her signature, and registered the same and investigated into. The Sub-Inspector of Police, Vallampudi Police Station filed a case for the offences under Sections 448 and 307 I.P.C.

4. The case has been taken on file for the offences under Sections 448 and 307 I.P.C. on the accused by the Judicial Magistrate of First Class, Kothavalasa. On appearance of the accused, copies of all documents were furnished to him under Section 207 Cr.P.C. On perusal of the entire record, the same has been committed to the Court of Sessions under Section 209 Cr.P.C. On receipt of the said record, the District and Sessions Judge, Vizianagaram registered the same and made over the same to the Court of the Assistant Sessions Judge, Vizianagaram for trial and disposal according to law.

5. On appearance of the accused and on hearing both sides, charges under Sections 448 and 307 I.P.C. have been framed, read over and explained to him in Telugu for which, he denied the charges and claimed to be tried.

6. To substantiate the case of the prosecution, P.Ws.1 to 12 were examined and Exs.P-1 to P-14 were marked besides material objects – M.Os.1 to 11.

7. After closure of the evidence on the prosecution side, the accused was examined under Section 313 Cr.P.C. He denied the evidence on the side of the prosecution. On behalf of the accused, none was examined and Ex.D-1 was marked.

8. The learned trial Judge, basing on the evidence adduced and after elaborate discussion, found the accused not guilty for the offence under Section 307 I.P.C., and found him guilty for the offences under Sections 326 and 448 I.P.C. and accordingly, convicted and sentenced him as stated supra. Challenging the same, the State filed the present Criminal Appeal and the accused filed Criminal Appeal No.15 of 2006 before the Sessions Judge, Vizianagaram, which was later, transferred to this Court and numbered as Transfer Criminal Appeal No.1052 of 2013.

9. Heard and perused the material available on record.

10. The trial Court, after considering the entire evidence available on record and after elaborate discussion, rightly found the accused not guilty for the offence under Section 307 I.P.C. and found the accused guilty for the offences under Sections 326 and 448 I.P.C. The findings of the trial Court are neither perverse nor illegal. Hence, this Court is of the view that the said findings are in accordance with law and therefore, the impugned judgment does not warrant interference of this Court.

11. Further, in a case of acquittal, if the trial Court consists of two views and basing on one of the views, which is in favour of the accused, acquits the accused, normally, the appellate Court will not interfere with the judgment of the trial Court unless and otherwise, the

evidence adduced by the prosecution clinchingly points towards the guilt of the accused. In the present case, the learned trial Judge has considered all aspects and rightly found the accused not guilty for the offence under Section 307 I.P.C. and found the accused guilty for the offences under Sections 326 and 448 I.P.C. Hence, this Court is not inclined to interfere with the impugned judgment and the appeal filed by the State is liable to be dismissed.

12. In the result, the conviction imposed against the accused in the judgment, dated 27.1.2006, in Sessions Case No.122 of 2003 on the file of the Assistant Sessions Judge, Vizianagaram for the offences under Sections 326 and 448 I.P.C. is confirmed. However, the sentence of imprisonment imposed by the trial Court for the offence under Section 326 I.P.C. is modified to the period which the accused has already undergone, while maintaining the sentence of fine for both the offences.

13. Accordingly, Criminal Appeal No.1731 of 2007 is dismissed and Transfer Criminal Appeal No.1052 of 2013 is partly allowed.

14. Miscellaneous petitions pending, if any, in these cases shall stand closed.

JUSTICE RAJA ELANGO

9.8.2016

AMD

THE HONOURABLE SRI JUSTICE RAJA ELANGO

-
-
-
-
-

AMD