

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.204 OF 2006

JUDGMENT:

Heard Sri T. Sharan Reddy, learned counsel for the revision petitioner - *de facto* complainant.

2. The learned counsel for the revision petitioner would submit that the lapses on the part of prosecution or the investigating agency cannot be thrown on the *de facto* complainant or PWs.1 to 3 to record acquittal by the learned Judicial Magistrate of First Class, Chintalapudi by the judgment dated 02.09.2005 in C.C. No.172 of 2002, which is under challenge in the present Criminal Revision Case preferred under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short 'Code'). He would submit that the evidence of PWs.1 to 3 though, appear here and there mutually inconsistent, still, it would not tilt the basic theme of the case of the prosecution. He would, of course, admit that the medical officer, though cited, who examined PWs.1 to 3, injured witnesses, was not examined by the prosecution and only the radiologist is examined as PW.11 and X-ray film is not filed. He would submit that the injuries on the persons of PWs.1 to 3 cannot be disbelieved.

3. PWs.1 to 3 would support the prosecution case, but the fact remains that on an intrinsic examination, their evidence would clearly reveal that it is mutually inconsistent as pointed out with

relevant details and analyzed by the learned Magistrate. The other witnesses who were examined as PWs.4, 6 and 7, termed as eyewitnesses to the prosecution's case, have turned hostile. There is no corroboration of evidence of PWs.1 to 3 on certain material aspects where they have spoken favouring their own case. As could be seen from what has been observed by the learned Magistrate, their evidence is not only mutually inconsistent, but also they were unable to speak on the attack by the accused persons and the parts of their person respectively, they received the injuries and even in regard to the same, there is some sort of inconsistency with their statements recorded under Section 161 of the Code. One thing is certain that injuries on the persons of PWs.1 to 3 were not proved for want of medical officer, who examined them and issued wound certificate. In such an event, it is difficult to hold, merely basing on the evidence of PWs.1 to 3 which is not that convincing to inspire confidence of the Court, to record conviction by upsetting the order of acquittal passed by the trial Court. Even the evidence of PW.11 has become useless for the reason that X-ray film was not filed and marked. Further, even the weapons of offence, which are sticks and iron rod alleged to have used by the respondent Nos.1 to 6, were not placed before the Court marking them as material objects. When such lapses are occurring in the case of prosecution and the evidence is not that cogent and convincing, certainly, the order of acquittal recorded by the learned

trial Court cannot be withheld. Thus, there is no merit in the present revision.

4. Therefore, the Criminal Revision Case is dismissed confirming the order under challenge.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the present revision stand dismissed.

A. SHANKAR NARAYANA, J

November 21, 2017.

PV

