

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.360 of 2005

ORDER:

Aggrieved over the conviction recorded under Section 235 (2) of the Code of Criminal Procedure, 1973 (for short, 'the Code'), for the offence punishable under Section 326 IPC and the sentence of Rigorous Imprisonment for three years and a fine of Rs.500/- with default sentence of Simple Imprisonment for six months inflicted by the Additional Assistant Sessions Judge, Guntur, by his judgment dated 29.04.2004, in S.C.No.51 of 2004, and affirmed by the I-Additional Sessions Judge, Guntur, by the judgment dated 02.03.2005, in CrL.A.No.186 of 2004, the accused – appellant preferred the present revision case under Sections 397 and 401 of the Code.

2. Heard Sri C. Upendra, learned counsel for Ms. T.V.Sridevi, learned counsel for the revision petitioner, and the learned Additional Public Prosecutor for the State of Andhra Pradesh appearing for the respondent.

3. Two main submissions are made by the learned counsel for the revision petitioner. The first submission is that the Investigating Officer has not seized the burnt clothes from the person of PW.1, and the second submission is that the so called acid said to have used in the commission of offence by the revision petitioner was not sent for chemical analysis to the expert. These two submissions

are to be examined in the light of the evidence let in by the prosecution.

4. The learned Additional Assistant Sessions Judge, Guntur, has appreciated the evidence of PWs.1 to 9 and the documentary evidence marked as Exs.P1 to P7. The witnesses examined were the victim as PW.1, mother of the victim as PW.2, a resident of the same locality as PW.3, a circumstantial witness as PW.4, another witness as PW.5, Medical Officers as PWs.6 and 7 and the Investigating Officers as PWs.8 and 9.

5. Admittedly, PW.1 supported her case as to the revision petitioner pouring acid on her, due to which, she received severe burns and PW.4, a circumstantial witness, found PW.1 going nearby trees followed by the revision petitioner and thereafter, finding the revision petitioner running away from the place of occurrence. Nothing is brought out in his cross-examination to discredit his testimony and so also the testimony of PW.1 and, having found that the burns on the person of PW.1 proved through the evidence of PW.6, the trial Court recorded conviction under Section 235 (2) of the Code for the offence under Section 326 IPC, holding that the intention to kill or the mens rea to kill is not finding place, rather the prosecution failed to prove the charge under Section 307 IPC originally charged, and inflicted the sentence of imprisonment and imposed fine as referred to in the above.

6. The lower appellate court also dealt with the evidence independently and referred to the relevancy of the evidence of PWs.2 and 3, besides the evidence of PW.4, a circumstantial witness, and finding that there is no error in the judgment rendered by the trial court, affirmed the conviction and also the sentence of imprisonment as well as fine imposed.

7. In the present criminal revision case, two submissions referred to in the above were raised by the learned counsel for the revision petitioner. Touching the first submission that the police have not seized the burnt clothes of PW.1 at the time when acid was said to have poured, certainly, it cannot account for any infirmity or a serious lapse in finding that the revision petitioner was the person who poured acid on PW.1, who is a direct witness and the victim in the present case. Therefore, there is no merit in that submission made by the learned counsel.

8. As regards the other submission that acid was not sent for chemical analysis to the expert, it too does not account for a serious lapse going to the root of the case of the prosecution. When the medical evidence is corroborating the evidence of PW.1 as well as the burns sustained by her on left cheek, right forearm, left thumb, flexor aspect of both thighs, external genitalia and perineum, and even the evidence also indicating that internal parts were also burnt, then, certainly, this submission is also not worthy of acceptance.

9. When concurrent findings recorded by the courts below do not suffer from any patent illegality, no interference is warranted.

10. The Criminal Revision Case is, therefore, dismissed confirming the conviction recorded and the sentence of imprisonment inflicted and the fine imposed with default sentence by the courts below.

11. The revision petitioner is directed to surrender before the Additional Assistant Sessions Judge, Guntur, by 21.12.2017, to serve out the sentence of imprisonment. In case he fails to surrender, the learned Additional Assistant Sessions Judge shall secure his presence and put him in prison to serve out the sentence of imprisonment. The period of pre-trial detention and post-trial detention from 17.10.2003 to 03.12.2003 and 08.06.2004 to 29.06.2004 shall be given set off under Section 428 of the Code.

As a sequel thereto, miscellaneous petitions, if any pending in the present revision, stand closed.

JUSTICE SHANKAR NARAYANA

24.11.2017

v v