

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.R.C.No.1017 of 2017

JUDGMENT:

This revision is filed under Sections 397 and 401 of Cr.P.C questioning the propriety, legality and regularity of the judgment, dated 29.06.2005 in Crl.A.No.34 of 2003 passed by the III Additional District and Sessions Judge, L.B.Nagar confirming the conviction and sentence recorded by the Additional Judicial First Class Magistrate, Hyderabad East and North, Ranga Reddy in C.C.No.311 of 1997 imposing sentence of rigorous imprisonment for three months and to pay fine of Rs.500/- in default to suffer simple imprisonment for 15 days.

The grounds urged before this Court are that the Courts below did not look into the material discrepancy in the testimony of PW.1 about the time of occurrence and that the Courts below did not insist independent evidence of any independent witness, who supported the prosecution case and that based on evidence of PW.1, the trial Court convicted the accused for the offence punishable under Section 382 IPC and the same was confirmed by the appellate Court.

During hearing, learned counsel for the petitioner would contend that there is any amount of discrepancy as to the time of occurrence in the evidence of PWs.1 to 5 and this fact is taken into consideration by both the Courts below, the petitioner is entitled for acquittal and both the Courts below did not consider the discrepancy in proper perspective and committed serious error in finding the accused guilty.

The power of this Court under Sections 397 and 401 Cr.P.C are limited and this Court cannot normally interfere with the concurrent findings recorded by the Courts below, but only in exceptional circumstances, where the concurrent findings recorded by the Courts below are manifestly perverse or apparently erroneous.

In the present case, learned counsel pointed out only discrepancy as to the time of occurrence and according to the report, the time of occurrence was 04.40 PM, whereas the evidence on record discloses that the incident occurred at 08.00 AM. The appellate Court recorded the said finding at para 11 of its judgment, based on appreciation of evidence, accepting the time of occurrence. The discrepancy with regard to the occurrence would not go to the root of the case as FIR was also issued at the same time. Therefore, it is not a serious question to look into the matter by exercising power under Section 401 Cr.P.C. taking into totality of circumstances. On this ground, the conviction and sentence passed by the Courts below cannot be interfered.

During hearing, learned counsel for the petitioner requested this Court to reduce the sentence, since the petitioner already underwent sentence for a period of one month. Curiously, no such ground is raised in the grounds of revision, more particularly, questioning the propriety, legality and regularity of the order passed by the appellate Court. On the other hand, maximum sentence prescribed for the offence is ten years and fine. The Court below took lenient view in imposing sentence for a period of three months. Therefore, I find no mitigating circumstances to reduce sentence to any extent and the same is liable to be dismissed.

Accordingly, the Criminal Revision Case is dismissed.

Miscellaneous petitions, if any, pending in the criminal revision case, shall stand closed.

M. SATYANARAYANA MURTHY J

Date: 03.08.2017
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