

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.1432 OF 2006

JUDGMENT:

Heard Ms. Thakur Roopa Singh, learned counsel, representing Sri L.J. Veera Reddy, learned counsel for the revision petitioner.

2. The present Criminal Revision Case is filed by the *de facto* complainant under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short 'Code'), questioning the order of acquittal, dated 07.12.2005, recorded by the learned Assistant Sessions Judge, Proddatur, in Sessions Case No.266 of 2003.

3. The revision petitioner alleged the offences punishable under Sections 365, 384, 324, 343 and 308 read with 34 IPC against respondent Nos.2 to 6, who are accused Nos.1 to 5 in the aforesaid Sessions Case.

4. The learned counsel would submit that the findings recorded by the learned Sessions Judge are legally infirm for the reason that the medical officers' evidence would clearly show the injuries on the person of PW.1 - *de facto* complainant, despite the same, the learned Sessions Judge did not convince himself and discarded the evidence on certain grounds or probabilities.

5. On a thorough examination of the findings recorded by the learned Sessions Judge in arriving at the conclusion that the *de facto*

complainant failed to prove the offences against the accused persons, it is to be found that the findings are based on proper appreciation of evidence on record and based on process of reasoning.

6. On three important aspects, which can be construed as vital aspects to sustain conviction, the learned Sessions Judge recorded the findings against the *de facto* complainant. First, the *de facto* complainant sustained injuries found by the doctors cited as witnesses, who examined the *de facto* complainant fifteen (15) days after the date of incident. In fact, accused Nos.1 to 5 are no other than his close relations, in the sense, accused Nos.1 and 2 are his own sons and accused No.4 is brother-in-law of accused No.2 and accused Nos.4 and 5 are close relations of accused No.1. The Medical Officer, who examined the *de facto* complainant on being referred to by the Investigating Agency, found septic injury to the right leg of the *de facto* complainant indicating that the injuries sustained by him were caused considerable time prior to their examination. Admittedly, the delay of fifteen (15) days occurred in the present case in lodging the complaint. That also constitutes a second factor or one of the factors for recording acquittal which would be adverted to later. The non-examination of Medical Officers who initially treated the *de facto* complainant, were not examined. That was the reason why the learned Sessions Judge arrived at the finding that to suppress the real facts, they were not examined intentionally, or intentionally omitted to

examine Dr. E.V. Subba Reddy and Dr. K. Nagi Reddy. Whenever witnesses cited were not intended to be examined by the prosecution, invariably a memo has to be filed assigning the reasons for their non-examination. It appears, such a memo was not at all filed, and that was the reason why the learned Sessions Judge arrived at such finding.

7. Second relates to non-mentioning of the names of accused Nos.3 to 5 in the complaint. The whole case rests on house trespass and attacking the *de facto* complainant by accused Nos.1 to 5 with deadly weapons according to the complaint. But, in the complaint, the *de facto* complainant failed to mention the names of accused Nos.3 to 5 and their participation. Thus, in the First Information Report itself, the *de facto* complainant has not revealed the true genesis of the case of the prosecution or his own case. There was no reason for non-mentioning the names of accused Nos.3 to 5 in case they did really participate or in case the incident did really take place as projected by him. That is how the learned Sessions Judge has accounted them as suspicious features going to the root of the case of the *de facto* complainant, and thereby recorded a finding thereon against him

8. Third, there has been delay of fifteen (15) days in lodging the complaint. The learned Sessions Judge found that the inordinate delay of fifteen days in lodging the complaint was not at all explained. The only reason assigned is that he was illegally detained, and that

that was the reason why the *de facto* complainant could not make the complaint earlier. If that be so, there ought to be yet another case or crime for illegal detention or there ought to have been an allegation that an offence being clutched against the accused persons, besides the offences alleged against them in the present case. When there is no reasonable or plausible explanation to satisfy the inordinate delay in lodging the complaint, certainly, the finding recorded by the learned Sessions Judge viewing it with suspicion cannot be faulted.

9. These three are the main reasons basing on which the learned Sessions Judge recorded an acquittal. The other reasons assigned by the learned Sessions Judge needs no advertence. Therefore, viewed in any angle, certainly, the findings recorded by the learned Sessions Judge cannot be upset as they are not tainted with any illegality, much less patent illegality, warranting interference. Thus, there is no merit in the Criminal Revision Case.

10. Accordingly, the Criminal Revision Case is dismissed.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the criminal revision case, stand closed.

A. SHANKAR NARAYANA, J

December 12, 2017.

Mgr