

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.1436 of 2006

ORDER:

The present revision case is preferred questioning the order of acquittal recorded by the learned III Metropolitan Magistrate, Visakhapatnam, by his judgment dated 12.06.2006, in C.C.No.46 of 2004.

The petitioner is the *de facto*-complainant. He lodged a complaint alleging the offences punishable under Sections 427, 447, 323 and 506 IPC against respondent No.1 – sole accused. The Investigating Officers – PWs.7 and 8, having conducted investigation, laid charge sheet alleging the said offences. The learned Magistrate, having observed due formalities of examining the accused under Section 251 of the Code of Criminal Procedure for the offences punishable under Sections 427, 447, 323 and 506 IPC, proceeded with the trial, as the accused pleaded not guilty. As many as eight witnesses were examined and Exs.P1 to P14 were marked on behalf of the prosecution, besides Ex.D1, which are photographs, on behalf of the defence. The learned Magistrate, having referred to the evidence of PWs.1 to 6, did not believe their testimony, as the assertions made by them in their chief-examination are mutually inconsistent and does not inspire confidence.

It is true, when the evidence of PW.3- injured, who was engaged to water the wall, was examined, she neither spoke about assault, hurt or threatening made by the accused and even the learned Magistrate

observed that there was no proof that the accused demolished the wall and that it took two hours to do so and, on the other hand, PW.3 asserted that nobody came when she was watering the wall and, except herself, no other person was available there at 3.00 p.m. In fact, she is the main witness and when her evidence is not convincing, certainly, the findings recorded by the learned Magistrate recording acquittal cannot be said to be illegal nor there is any legal infirmity in the said findings. In fact, the learned Magistrate has referred to the evidence of all other witnesses and even referred to a civil case pending between the parties in regard to the assertion of title over the property. Therefore, there is no merit in the present revision.

The present Criminal Revision Case is, accordingly, dismissed.

Across the bar, it is represented that Sri P. Satyanarayana, learned counsel for the revision petitioner, is no more. It is for the revision petitioner to take appropriate step of appointing yet another Advocate and contest the present revision case, which he did not do.

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

JUSTICE SHANKAR NARAYANA

22.11.2017

v v