

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**CRIMINAL REVISION CASE No.1283 of 2005**

**ORDER:**

Mattupalli Sreenivasa Rao, who is Pw.3 in C.C.No.74 of 2004 on the file of VI Additional Munsif Magistrate, Guntur, filed this Criminal Revision under Sections 397(1) and 4012 Cr.P.C, challenging the conviction and sentence imposed by the trial Court in C.C.No.74 of 2004.

The case of the prosecution is that on 31.04.2004 at 7.30 pm the accused/respondents herein picked up quarrel with Pw.3 and another and in the said quarrel, A.1 beat Mattupali Ravi @ Ramesh with a chutney pounder on his head, right thigh and on the back and A.1 also beat Mattupalli Siva Pandurangarao with chutney pounder on his head, right shoulder, left thigh and right thumb; A.2 beat Mattupalli Siva Panduranga Rao with a knife on his head; A.3 beat him with a stick on his back; A.1 also beat Pw.3 with chutney pounder on his back. A.3 beat him with a stick on his back and A.1 beat Mattupalli Nagalakshmi with chutney pounder on her back and A.1 beat Mattupalli Sivakumari with chutney pounder on her chest. Basing on the statement of Mattupalli Ravi, a case in Cr.No.20 of 2004 was registered and after investigation, the police filed charge sheet against the accused for the offence punishable under Section 324 r/w 34 IPC.

On appearance of the accused, the trial Court took the case on file against accused after following necessary procedure and framed a charge for the offence punishable under Sections 324 IPC, read over and explained to them in Telugu, they pleaded not guilty and claimed to be tried.

During trial, PWs. 1 to 13 were examined and Exs. P.1 to P.13 and Exs. D.1 to D.3 were marked. After closure of prosecution side evidence, the accused were examined under Section 313 Cr.P.C. explaining the incriminating material appeared against them in the evidence of prosecution witnesses, but they denied the same and reported no defence.

Upon hearing both the Additional Public Prosecutor and Defence counsel, the trial Court found the accused guilty for the offence punishable under Section 324 IPC and convicted for the same. But, upon hearing the accused Nos. 1 to 3 with regard to quantum of sentence and considering the mitigating circumstances concluded that imposing of fine of Rs.200/- each with default sentence would met the ends of justice and sentenced them accordingly.

Aggrieved by the same, the present Criminal Revision is filed challenging the quantum of punishment imposed by the trial Court on the ground that it is not commensurate with seriousness and gravity of the offence.

The counsel for the petitioner contended that when the respondents caused such injuries on the body of three persons, the sentence imposed must commensurate with the gravity and seriousness of the offence and imposing of such flea bite sentence is contrary to the sentencing policy of the State and prayed to impose appropriate sentence.

After hearing both the parties, the trial Court found the accused guilty for the offence punishable under Section 324 IPC. The sentence prescribed for the offence punishable under Section 324 is either description for a term which may extend to three years, or with fine, or with both.

Though there is no minimum sentence prescribed, while imposing sentence against any accused, the Court must take into consideration the mitigating and aggravating circumstances, which are as follow:

- 1) The manner and circumstances in and under which the offence was committed, for example, extreme mental or emotional disturbance or extreme provocation in contradistinction to all these situations in normal course.
- 2) The age of the accused is a relevant consideration but not a determinative factor by itself.
- 3) The chances of the accused of not indulging in commission of the crime again and the probability of the accused being reformed and rehabilitated.
- 4) The condition of the accused shows that he was mentally defective and the defect impaired his capacity to appreciate the circumstances of his criminal conduct.
- 5) The circumstances which, in normal course of life, would render such a behaviour possible and could have the effect of giving rise to mental imbalance in that given situation like persistent, harassment or, in fact, leading to such a peak of human behaviour that, in the facts and circumstances of the case, the accused believed that he was morally justified in committing the offence.

Therefore, the Court is bound to take into consideration the mitigating and aggravating circumstances, more particularly, in which condition the incident took place and other relevant considerations stated above.

The trial Court taking into consideration of mitigating circumstances, particularly causing injuries in sudden quarrel imposed such sentence. Since the sentence imposed by the Court though minimum, the section does not prescribed any minimum sentence of imprisonment for such offence. Therefore, imposition of sentence of fine of Rs.200/- each now cannot be enhanced while exercising power under Sections 397 and 401 Cr.P.C., that too after 12 years from the date of recording conviction and imposing sentence. Hence, I find no

ground to enhance the sentence imposed by the trial Court.  
Consequently, the revision is devoid of merits.

Accordingly, this Criminal Revision Case is dismissed upholding the conviction and sentence passed in C.C.No.74 of 2004 by the VI Additional Munsif Magistrate, Guntur.

Consequently, miscellaneous applications pending, if any, shall also stand dismissed.

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**JUSTICE M. SATYANARAYANA MURTHY**

Date:04.09.2017  
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