

HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.1208 OF 2017

ORDER:

Heard before admission at length the counsel for the revision petitioner/sole accused in C.C.No.38 of 2012 on the file of II Additional Chief Metropolitan Magistrate, Hyderabad, for the offence under Section 32 and 506 I.P.C., outcome of Crime No.346 of 2011 and perused the material on record.

It is before the trial court from the charges the trial court found the accused guilty for the offence under Section 323 IPC and not made out the aggravated form under Section 324 IPC or even other offence under Section 506 IPC and sentenced to undergo rigorous imprisonment for six months and to pay fine of Rs.1,000/- with default sentence of one month, by judgment dated 24.01.2017, from the evidence of P.Ws.1 to 4 and Exs.P1 to P4 and accused, but for tested the witnesses by cross-examination did not come to witness box, and of the four witnesses besides P.W.3 is the eye witness, P.W.1 is the injured eye witness to the occurrence and P.W.4 is the doctor, who treated him showing from the medical evidence covered by Ex.P.4 wound certificate of three injuries sustained, which are described as simple and the trial court found that there is no deadly or dangerous weapon used in causing the said assault proved from the evidence to make out the offence under Section 324 IPC and there is no offence

of criminal intimidation under Section 506 IPC in finding guilty for 323 IPC in so sentencing and the appellate court confirmed the same for nothing to interfere by impugned appeal judgment dated 20.04.2017. The revision is maintained against it.

When eye witness deposed leave about the other evidence, including of P.W.3, not only of the alleged occurrence and prompt reporting of the occurrence in P.W.2 registering the crime and P.W.4, who treated and issued Ex.P.4 would certificate also deposed and the injuries are in corroboration and trial court from the evidence rightly found so also confirmed by lower appellate court, there is no incorrectness or illegality or impropriety in the finding of guilt of the accused for the said offence of Section 323 IPC concerned.

Now coming to the other contention of quantum of sentence of imprisonment of six months with fine of Rs.1,000/- is onerous concerned, as the punishment provided is up to one year or with fine or both, as the case may be and the fine to be imposed under Section 29(2) amended Cr.P.C. is the maximum of Rs.1,000/-, however, that bar has no application if at all to award compensation. Once fine is imposed, the compensation to be awarded only out of the fine and not otherwise. Having regard to the above and to sub-serve the ends of justice, this Court imposing

instead of sentence of six months to the period of imprisonment already undergone by giving set of since shows from the record already nearly ten days he was in jail during the pending trial and from the conviction judgment since 20th, and to release forthwith by further imposing fine of Rs.6,000/- , out of which one thousand goes to the State and Rs.5,000/- as compensation to the complainant, by granting one month time from now to pay the said fine, failing which with default sentence of one month the trial court shall enforce.

Accordingly and with the above observation, this criminal revision case is disposed of. Miscellaneous petitions pending, if any, in this case shall stand closed.

25.04.2017
SS

DR.B.SIVA SANKARA RAO, J

