

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.1102 OF 2006

JUDGMENT:

The present Criminal Revision Case is filed under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short 'Code') challenging the order, dated 02.03.2006, passed in C.C. (SR) No.6686 of 2005, by the learned Additional Judicial Magistrate of First Class, Ramachandrapuram, dismissing the complaint under Section 203 of the Code, having recorded the sworn statements of LWs.1 to 3.

2. The complainant got aggrieved, filed the present Criminal Revision Case.

3. Heard the learned counsel for the revision petitioner.

4. The offences alleged against respondent Nos.1 to 8 - accused are punishable under Sections 395, 447, 147, 148, 149, 307 and 324 read with 34 IPC. The allegations are to the effect that the mother-in-law of the revision petitioner - complainant, Smt. Chilukuri Subbalakshmi, owned an extent of Acs.4.29 cents of land in Hasanabada village of Draksharama, and she has been personally cultivating the land with the help of the complainant, and raised Swarna variety of paddy first crop. Respondent Nos.1 and 2 – accused Nos.1 and 2, who are brothers of said Smt. Ch. Subbalakshmi, proclaimed to grab the said property and, therefore, his mother-in-law filed O.S. No.77 of 2005 on the file of the Principal

Junior Civil Judge, Ramachandrapuram and obtained a temporary injunction.

i) Turning to the incident in the present case, on 26.11.2005 at about 11.00 a.m., one Y. Venkata Rao, a farm-servant of the complainant informed him that accused No.1 and others armed with deadly weapons with common object, trespassed into the said paddy fields, harvested the heap of paddy and taken away the paddy crop. When the complainant along with Sri P. Srihari Rao went to the fields, they found respondent No.1 and other respondents having trespassed into the field, harvested the paddy heap, and removed the paddy bags in the cattle shed of respondent No.1. When they obstructed and questioned the high-handedness, they pushed with a stick and threatened the complainant and beat him on back side of the person. When the complainant was proceeding to the police station on his scooter to give a report, it is alleged that respondent Nos.2 to 5 came in a Fiat Car bearing No.AP 9G 1434 and dashed him, due to which, he fell down by the side of the road. Then they alleged to have beat him and respondent No.1 beat with stick. Later, he went to the police station and lodged a complaint, but the police did not take any action. Hence, he approached the Court under Section 200 of the Code.

5. The learned Magistrate having recorded the sworn statements of LWs.1 to 3 i.e., complainant and one Y. Venkata Rao and D. Lovaraju, meticulously examined their statements in the light

of the complaint averments and assigned reasons in paragraph No.9 observing that the facts asserted by the witnesses do not corroborate one another and even the complaint averments are not corroborated. He has pointed out the discrepancies by examining the statements in ascertaining the truth or otherwise in the complaint filed by the revision petitioner, and pointed out mutually contradictory assertions made by the witnesses. Lastly, observing that even the complainant and other witnesses did not state as to how 120 bags of paddy alleged to have taken away, and the mode of transportation was also not mentioned, arrived at the conclusion that the statements suffer from exaggeration in order to attract the provisions of Section 395 IPC. He has analyzed the statements and the overt acts in the complaint with reference to the statements made by the witnesses. Thus, he concluded that there is no *prima facie* ingredients in the statements of the witnesses that respondent Nos.1 to 8 tried to kill him with the common object and common intention, nor there is any material found that they are the members of unlawful assembly armed with deadly weapons.

6. Even going by the order itself, it is clear that except respondent No.1 alleged to have held the stick, no other nature of weapons were spoken to by the witnesses as having been found by the other respondents. To construe a deadly weapon, certainly, the nature of weapon ought to be spoken. This apart, the findings recorded by

the learned Magistrate basing on the sworn statements of LWs.1 to 3 and also basing on the complaint averments, as could be seen from the observations in paragraph Nos.8 to 12, do not, of course, suffer from any legal infirmity, at least to remit the matter by setting aside the order. Admittedly, a civil suit is pending between the parties which the complainant himself disclosed where injunction was also obtained by Ch. Subbalakshmi, who is the mother-in-law of the complainant. The order does not warrant any interference, that too at this distance of time where twelve years elapsed. There is no merit in the Criminal Revision Case.

7. The learned counsel also placed reliance in **Bagadi Narasinga Rao v. Kinjarapu Varaprasad and others**¹. The proposition is to the effect that it is not at all necessary for a complainant to examine all the witnesses at the initial stage and he can reserve the same to be examined at the stage of trial, basing on a full bench decision of this Court in **G. Subba Naidu v. Talluri Mahalakshamma**². That has not been the fact-situation or the controversy in the present case. Therefore, the said decision is not applicable to the present case.

8. The present Criminal Revision Case is, accordingly dismissed.

¹. 2004 (1) ALT (Crl.) 84 (A.P.)

². 2001 (1) ALT (Crl.) 187 (A.P.)

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

A. SHANKAR NARAYANA, J

November 29, 2017.

Mgr

