

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.3002 OF 2016

JUDGMENT:

Questioning the conviction recorded under Section 248(2) of the Code of Criminal Procedure, 1973 (for short 'Code') for the charges under Sections 448 and 506 of Indian Penal Code, 1860 (for short 'IPC') and the sentences of fine of Rs.1,000/- under each count and in default to undergo simple imprisonment for one month for each count, passed by the learned IV Additional Chief Metropolitan Magistrate, Hyderabad, by the judgment dated 08.07.2013 in C.C. No.637 of 2010, as affirmed by the learned II Additional Metropolitan Sessions Judge, Hyderabad, by the judgment dated 06.10.2016 in Criminal Appeal No.662 of 2013, the present Criminal Revision Case is preferred by the sole accused viz., M..B.N.V. Manikyala Rao.

2. Heard Sri O. Manohar Reddy, learned counsel for the revision petitioner - accused, and the learned Additional Public Prosecutor for the State of Telangana, and perused the material on record.

3. In the grounds of revision, the revision petitioner would state that the Courts below overlooked the fact that the evidence of PWs.1 to 3 would suffer from interestedness. The next submission is that the Courts below overlooked the fact that PW.1 was due amounts borrowed by him and when demanded repayment, implicated him

falsely. Last submission is that the ingredients of the penal offences under Sections 448 and 506 of IPC were not attracted. Therefore, sought to set aside the conviction recorded and the sentences of fine imposed as affirmed by the lower appellate Court.

4. Thus, the revision petitioner is assailing the concurrent findings recorded by the Courts below. In fact, in a criminal revision case, when concurrent findings are staring at the revision petitioner, this Court is not obligated with the duty to re-examine the evidence on record. What all to be seen is whether the revision petitioner could convince this Court that the findings recorded by the Courts below are tainted with patent illegality entitling him to an acquittal?

5. In the said direction, when the evidence is examined, the prosecution examined PWs.1 to 4 and marked Exs.P-1 to P-3, and on behalf of the revision petitioner, Exs.D-1 to D-6 were marked which are two cheques, handwritings of PW.1 on a white paper admitted by PW.1 in his cross-examination, certified copy of the charge sheet, reply notice, legal notice dated 13.07.2009 and certified copy of the judgment.

6. Among the witnesses of PWs.1 to 3, PW.3 is the watchman of the building in which PW.1 resides. The evidence of PW.3, therefore, cannot be viewed as interested. The prosecution story that in regard to the aforesaid loan transaction where on three occasions, PW.1 borrowed Rs.50,000/- each, but failed to repay, there was

demand for repayment and in that connection, the revision petitioner along with his henchmen, went to the flat of PW.1 and there, confined him through out the night threatening him and putting him under the fear of injury to repay the amount and the same was watched by the watchman PW.3. PW.3 has asserted that the accused along with others going into the flat of PW.1 on the evening of 10.07.2009 and the next morning, leaving the building. Thus, though, he is a circumstantial witness, but, his evidence corroborates the evidence of PW.1 that the revision petitioner and his henchmen trespassed into his house and threatened him through out the night, obtained blank signatures on certain documents including cheques. Since nothing is brought out in the cross-examination of either PW.1 or PW.3 to disbelieve their testimony, the learned Magistrate convicted the revision petitioner and imposed the aforesaid fine, but, however, that would not in any way tilt the case of the prosecution to lien in favour of the defence.

7. The learned lower appellate Judge also, on his independent examination of the evidence and depositions of the witnesses, arrived at the same conclusion. This apart, the answers given by PW.1 in his cross-examination would unravel that the said cheques were subject to scrutiny in criminal case where the allegation was dishonour of the said cheques and PW.1 was convicted and sentenced to undergo imprisonment and even his attempt failed when he preferred criminal appeal and he preferred the present criminal revision case.

8. on the mere ground that PW.3 was the watchman of the building in which the flat of PW.1 is situate and PW.3 deposed in favour of PW.1, his evidence cannot be discredited as he has no axe to grind by swearing falsehood. Therefore, the conviction recorded by the trial Court, the sentence of fine imposed, which is affirmed by the lower appellate Court, assigning reasons on an independent appreciation of evidence of PWs.1 to 4 do not at all suffer from legal infirmity. As already observed when the revision petitioner failed to show that the judgments of the Courts below are tainted with patent illegality, no interference is warranted.

9. Thus, confirming the conviction and the sentence of fine imposed on the revision petitioner, the Criminal Revision Case is dismissed for want of merit.

10. As a sequel thereto, Miscellaneous Petitions, if any, pending in the present revision case stand dismissed.

In case, the revision petitioner has not paid the fine amounts, he shall surrender before the learned IV Additional Chief Metropolitan Magistrate, Hyderabad and pay the fine amount and if he fails to pay the fine amount, the learned Magistrate is directed to commit the revision petitioner to prison for serving out the default sentence.

A. SHANKAR NARAYANA, J

December 6, 2017.

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