

HON'BLE SRI JUSTICE P. KESHA VA RAO

CRIMINAL REVISION CASE No. 556 of 2018

ORDER:

Heard the counsel for the petitioner as well as the learned Public Prosecutor for the respondent-State.

The present revision case is filed questioning the judgment dated 22.09.2017 passed in CrI.A.No.91 of 2017 on the file of the Court of the Judge, Family Court-cum-Additional District Judge, Ananthapuramu, confirming the judgment passed in C.C.No.204 of 2017 dated 20.06.2017 on the file of the Court of Additional Judicial Magistrate of First Class, Ananthapuramu sentencing the petitioner to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.5,000/- in default, to suffer simple imprisonment for a period of six months, for the offence punishable under Section 394 IPC.

The case of the prosecution is that on 10.11.2016, M.C. Sanjeevulu boarded an auto bearing No. AP-02-V-9629 at Sangameshwara Circle, Ananthapuramu to go to his village Sanjeevapuramu. The petitioner being the driver of the said auto, taken three other persons at S.K. University and dropped them at Anantha Laxmi College. Later the said M.C. Sanjeevulu was alone in the auto. The petitioner stopped the auto near a stone crushing machine in Krishnareddypalli and robbed of Rs.800/- cash and cell phone and he also beat him

with an iron rod on the left side of his cheek and on his back. After some time, one Linga Naidu i.e. PW-5 heard the cries of M.C. Sanjeevulu i.e. PW-1 and he found PW-1 with bleeding injuries. PW-5 dropped PW-1 on his motor bike in Sanjeevapuramu. PW-1 in turn informed the incident to PW-2 who is the son of his elder brother and also his younger brother by name Bala Narayana. Thereafter, PW-1 was shifted to the Government Hospital, Ananthapuram. Dr. B.Shiva Kumar, PW-6 examined PW-1 on 10.11.2016 at 11.20 P.M. and found a laceration of 2 x 1 cm in size over left cheek and issued the wound certificate Ex.P-2. The Sub-Inspector of Police, Itukalapalli Police Station i.e. PW-9 on intimation visited the hospital and recorded the statement of PW-1 under Ex.P-1, registered a crime vide FIR No.81 of 2016 for the offence under Section 394 IPC. After investigation, charge sheet is filed. The learned Magistrate has taken cognizance of the offence and numbered the case as C.C.No.204 of 2017. During the course of trial, the prosecution examined PWs.1 to 9 and marked Exs.P-1 to P-8. The material objects are marked as M.Os.1 to 5. After closure of prosecution evidence, the petitioner was examined under Section 313 Cr.P.C. explaining him the incriminating circumstances. He denied the same. However, he has not examined any witness on his behalf. After hearing both sides, the learned Magistrate found the petitioner guilty and was sentenced him to undergo imprisonment and fine as

mentioned supra. Aggrieved by the same, the petitioner filed an appeal in Crl.A.No.91 of 2017 on the file of Judge, Family Court-cum-Additional District Judge, Ananthapuramu. After hearing, the learned appellate Judge dismissed the appeal by judgment dated 22.09.2017. Aggrieved by the same, the present criminal revision case is filed.

The point for consideration in the present criminal revision case is:

“Whether there is any illegality or irregularity in the judgments passed by both the Courts below, more particularly any perversity with regard to the findings arrived at?”

PW-1, narrated the entire incident with all particulars. PW-3 who is working as motor mechanic deposed that PW-1 purchased pipes in Amaravathi enterprises and boarded into the auto of the petitioner-accused. The said fact is not disputed in the cross-examination. PW-5 who has seen the injured PW-1, categorically deposed that on 10.11.2016 at about 7.30 p.m. after completion of his work, while he was going home, he heard the cries of PW-1 and found him with bleeding injuries and he came to know about the incident from PW-1. The said PW-5 is an independent, reliable and trustworthy witness. Even PW-2 the son of elder brother of PW-1 also deposed that on 10.11.2016 at about 9 p.m. PW-1 came to the village with bleeding injuries. It is pertinent to mention that PW-1, identified the petitioner-accused in the test

identification parade. Though the learned counsel for the petitioner disputed the identification of the petitioner by PW-1, the same has no substance, since the petitioner-accused was arrested on 14.01.2017 and the test identification parade was conducted on 21.01.2017. Apart from the same, PW-1 boarded the auto at Anantapuramu at about 7.45 p.m. and travelling with him till the scene of offence is sufficient for PW-1 to identify the petitioner. Under these circumstances, this Court feels that the prosecution has satisfactorily explained its case and proved the guilt of the petitioner beyond reasonable doubt. Therefore, there is neither illegality nor irregularity in the judgment passed by the lower appellate Court confirming the judgment of the trial Court.

However, during the course of hearing, it is brought to the notice of this Court by the learned Public Prosecutor that no other cases are pending against the petitioner as of now. Therefore, this Court deems it appropriate to treat the period of remand already undergone, is sufficient for the offence under Section 394 IPC in C.C.No. 204 of 2017 dated 20.06.2017 on the file of the Court of the Additional Judicial Magistrate of First Class, Ananthapuramu.

Accordingly, the criminal revision case is dismissed confirming the conviction recorded against the petitioner vide judgment dated 22.09.2017 passed in CrI.A.No.91 of 2017 on the file of the Court of the Judge, Family Court-cum-Additional

District Judge, Ananthapuramu by modifying the sentence of imprisonment of two years to the extent of the period already undergone by the petitioner as sufficient. Hence, this Court directs that the petitioner may be released forthwith, if he is not required in any other crime.

Consequently, miscellaneous petitions, if any, pending in this criminal revision case shall stand closed.

P. KESHA RAO, J

Date:03.07.2018.
CCM



HONOURABLE SRI JUSTICE P. KESHA VA RAO



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Date :03.07.2018

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