

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL APPEAL No.433 of 2011

JUDGMENT:

This Criminal Appeal is filed by the appellant/State, challenging the judgment, dated 03.08.2009, passed in S.C.No.289 of 2008 by the Assistant Sessions Judge, Machilipatnam, whereby, the respondent/accused was acquitted of the charge under Section 307 of I.P.C.

2. Heard the learned Additional Public Prosecutor representing the appellant/State, the learned counsel for the respondent/accused and perused the record.

3. Learned Additional Public Prosecutor representing the appellant/State would contend that there is evidence of P.Ws.1 and 2 to substantiate the injuries caused to P.W.1 by the respondent/accused and all the ingredients under Section 307 of IPC are proved against him. The trial Court erred in acquitting the respondent/accused for the charge under Section 307 of IPC and ultimately, prayed to set aside the impugned judgment and convict the accused for the charge framed against him under Section 307 of IPC.

4. Learned counsel for the respondent/accused would contend that there is inconsistency in the evidence of prosecution witnesses. The injuries are also not proved. The trial Court rightly acquitted the respondent/accused for the charge under Section 307 of IPC and ultimately, prayed to dismiss the appeal.

5. As seen from the entire evidence on record, P.W.1 is the victim. The injuries said to have been suffered by him are in conflict with the medical evidence. There is no age of the injuries and the shape of the injuries, etc. Further, P.W.4 is the Traffic Sub-Inspector and

P.W.1 is the constable on traffic duty on the date of the alleged incident. The evidence of these two witnesses is also contradicting with regard to the manner of accused causing injuries to P.W.1. It is the case of P.Ws.1 and 4 that they were dragged for long distance. The injuries found on the body of P.W.1 are not showing any dragging injuries. Further, though the offence alleged to have been committed in the B.C. locality, there is no independent witness to support the case of the prosecution. Having appreciated all the oral and documentary evidence, the trial Court rightly acquitted the accused for the offence under Section 307 of IPC. The finding of the trial Court is based on evidence on record. There is nothing to take a different view. The appeal is devoid of merit and is liable to be dismissed.

6. Accordingly, the Criminal Appeal is dismissed.

Pending Miscellaneous Petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

Date : 19.12.2018
ssp