

THE HON'BLE SRI JUSTICE P. KESHA RAO
CRIMINAL REVISION CASE NO. 1895 OF 2010

ORDER:

Heard the learned counsel for the petitioner and the learned Public prosecutor appearing for respondent No.1 State.

2. The present Criminal Revision Case is filed against the judgment passed in S.T.C.No.11 of 2008 dated 20.11.2009 on the file of the Additional Judicial Magistrate of First Class, Kavali, in acquitting respondent No.2 for the offence under Sections 290 and 323 IPC.

3. The case of the prosecution is that on 30.1.2008, at 8.00 a.m., while PW1 was returning to his house and when he reached the house of one Dodla Anjaiah, respondent No.2 came to him, scolded him in filthy language stating as to why he was using the canal water to his lands and beat him with his hands on his face, causing minor injuries. On a complaint filed by PW1, PW5 visited the scene of offence, enquired into the matter and registered a petty case No.2 of 2008 under Sections 290 and 323 IPC of Bitragunta P.S. on 30.1.2008 at 10.00 hours. After investigation, a charge sheet was filed for the above said offences. On production of respondent No.2, the final report and the material enclosed there to were supplied to respondent No.2 in compliance with Section 207 Cr.P.C.

Thereafter, respondent No.2 was examined under Section 251 Cr.P.C. explaining the circumstances of accusation for the offence under Sections 290 and 323 IPC, for which, respondent No.2 pleaded not guilty.

4. To bring home the guilt of respondent No.2, the prosecution, in all examined PWs 1 to 5 and got marked Exs.P1 to P5. After closure of the evidence, respondent No.2 was examined under Section 313 Cr.P.C., explaining the incriminating evidence brought on record against him during the course of examination of the prosecution witnesses, for which, respondent No.2 pleaded not guilty. Learned Magistrate, after hearing the parties and analyzing the evidence on record, acquitted respondent No.2 for the above said offences by judgment dated 20.11.2009. Aggrieved by the same, the present Criminal Revision Case is filed by PW1.

5. Learned counsel for the petitioner strenuously contended that the learned Magistrate miserably failed to appreciate the evidence brought on record, particularly, PWs 1 and 3 and thereby committed an error in acquitting respondent No.2. He also submitted that the evidence of PW4 i.e., the Doctor, corroborates the version of PW1 that respondent No.2 has committed the offence. Learned Magistrate also failed to

appreciate that PW1 is a trust-worthy witness and his evidence can be relied on for convicting respondent No.2.

6. Having heard the learned counsel for the petitioner and from the perusal of the material on record, it is revealed that though PWs 2 and 3 were examined as eye witnesses, they have not supported the case of the prosecution. Though the Public Prosecutor, after declaring PWs 2 and 3 hostile, in the cross-examination, has not elicited anything to corroborate the evidence of PW1 except getting marked Exs.P2 and P3 statements. The Doctor, who was examined as PW4, deposed that on 30.1.2008 at 3.00 p.m. she has examined PW1 and found injury i.e., contusion 2 x 2 cms. present on the left zygomatic process and she opined that the injury was simple in nature. However, in the cross-examination, it has been elicited that the age of the injury is not mentioned in the wound certificate. PW5 who is the investigating officer, narrated the sequence of events taken up by him after registration of the crime.

7. A further perusal of the material on record and appreciation of the evidence brought on record would reveal that though PWs 2 and 3 were examined as eye witnesses, they have not supported the prosecution case. That apart, PW4 who is a Civil Assistant Surgeon, Government Area

Hospital, Kavali, in her cross-examination, has categorically deposed that she has not mentioned the age of the injury in the wound certificate. Therefore, it cannot be said whether the injury sustained by PW1 was during the commission of the alleged offence or not. When the prosecution has miserably failed to establish its case beyond reasonable doubt by corroborating the evidence of PW1 in all respects, it cannot be said that respondent No.2 has committed an offence. Therefore, this Court is of the opinion that there is no irregularity or illegality in the judgment passed by the learned Magistrate.

8. As such, there are no merits in the Criminal Revision Case and the same is dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed.

P. KESHA RAO,J

Date: 27.9.2018

KPM