

**HON'BLE SRI JUSTICE P. KESHAVA RAO**

**CRIMINAL REVISION CASE No.1877 of 2010**

**ORDER:**

Heard the learned counsel for the petitioner.

The present revision case is filed against the judgment passed in C.C.No.256 of 2009 dated 02.07.2010 on the file of the Judicial Magistrate of I Class, Special Mobile Court, Ongole, in acquitting the 2<sup>nd</sup> respondent for the offence under Section 324 IPC.

The case of the prosecution is that on 06.01.2009 at about 6.30 p.m. when LW.1 i.e., Kolakatla Singa Reddy was present in front of his house, the 2<sup>nd</sup> respondent/accused, who was proceeding in front of his house, when questioned by LW.1, he beat LW.1 with a stick on his head causing swelling injuries. He also hit him with a sickle on his stomach and shoulders causing bleeding injuries. On hearing the cries of LW.1, LWs.3 to 6 rushed there and rescued LW.1 from the hands of the accused. Later, LW.1 was shifted to RIMS Hospital, Ongole, for treatment. The reasons for the dispute between LW.1 and the accused are that LW.1 gave financial support to the accused and recently when the accused was in need of support, LW.1 could not do so. In that connection, the accused developed ill-feelings against LW.1. On the complaint given by LW.1, a crime was registered vide FIR.No.3 of 2009 for the offence under Section 324 IPC. After completion of investigation, a charge sheet was laid. The learned Magistrate, after taking cognizance of the offence, numbered the case as C.C.No.256 of 2009. After complying with the formalities under Section 207

Cr.P.C., and when the 2<sup>nd</sup> respondent denied the same and pleaded not guilty, the prosecution to bring home the guilt of the 2<sup>nd</sup> respondent, in all examined PWs.1 to 7 and marked Exs.P1 to P5. The learned Magistrate, after appreciating the evidence, by judgment dated 02.07.2010, acquitted the accused, against which, the present revision case is filed.

Learned counsel appearing for the petitioner would contend that PW.1, who is the victim, in his deposition has categorically pleaded the sequence of events that transpired on 06.01.2009. PWs.2 and 3 being the eye witnesses have corroborated the evidence of PW.1. PW.4, who came after the incident, also deposed the version of PWs.1 to 3. It is relevant to mention that PW.1 in the attack sustained bleeding injuries and he was shifted to RIMS Hospital, Ongole, for treatment. The doctor, who was examined as PW.6, has categorically deposed with regard to the injuries sustained by PW.1. In fact, Ex.P5, the wound certificate, issued by PW.6 corroborates the nature of injuries sustained by PW.1. In the cross-examination of PWs.1 to 4 and 6 nothing is elicited to discredit their evidence. However, the Court below acquitted the 2<sup>nd</sup> respondent by observing that the prosecution did not examine the surrounding persons of the scene of offence except PW.4 and there is no independent evidence and all the witnesses are the relatives of PW.1, which is admitted in his cross-examination. In these circumstances, the question that crops up for consideration is:

Whether the prosecution proved the guilt of the accused?

The evidence of PWs.1 to 3 is corroborated by the evidence of PW.4, who is an independent witness. That apart, the nature of injuries caused to PW.1 is supported by the evidence of PW.6 in the form of Ex.P5 i.e., wound certificate. Merely, because the surrounding persons at the scene of offence are not examined that itself is not a ground to extend the benefit of doubt to the 2<sup>nd</sup> respondent when admittedly the evidence of PW.1 has been corroborated by the other prosecution witness and also the evidence of Doctor i.e., PW.6 in the form of Ex.P5 i.e., wound certificate. In fact, PW.4 is an independent person. PW.5 registered a case and visited the hospital and recorded the statements of PWs.1 to 4 at the Government hospital, Ongole. Thereafter, he visited the scene of offence and prepared a rough sketch. At that stage, he could not examine any surrounding person. When the evidence of PWs.1 to 3 has already been corroborated with the evidence of PW.4 and in the light of the supporting evidence of PW.6 in Ex.P5, the observation of the learned Magistrate that no surrounding person at the scene of offence is examined and thereby giving benefit of doubt to the 2<sup>nd</sup> respondent in the light of Ex.P5 and the evidence of PW.6 is not sustainable in the eye of law.

It is settled law that even in the absence of independent evidence, if the version of PW.1 is corroborated by his relatives, and admittedly, nothing has been elicited in their cross-examination, the learned Magistrate ought not to have discarded their evidence. Therefore, the observations made by the learned Magistrate in

giving benefit of doubt to the 2<sup>nd</sup> respondent for acquitting him is not sustainable in law. Therefore, the impugned judgment is liable to be set aside.

Accordingly, the criminal revision case is allowed, setting aside the judgment passed in C.C.No.256 of 2009 dated 02.07.2010 and the matter is remitted back to the learned Judicial Magistrate of I Class, Special Mobile Court, Ongole, for fresh disposal.

Miscellaneous petitions, if any, shall stand closed.

Date: 17.09.2018.  
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**P. KESHAVA RAO, J**