

HON'BLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE No. 2404 of 2014

ORDER:

The present criminal revision case is filed challenging the judgment dated 11.04.2014 in S.C.No.296 of 2009 on the file of the Court of the Assistant Sessions Judge, Kothapeta, East Godavari District, acquitting the respondents 2 to 9 for the offences under Sections 147, 148, 324, 326, 324 r/w 149 and section 307 r/w 149 IPC.

The gravamen of the charge against the respondents 2 to 9/A-1, A-3 to A-9 is that they are the residents of Palivela village. The injured/PW-1 i.e. the petitioner herein and PWs.2 to 4 are also residents of the same village. There was a rivalry between the two families. About 20 years ago, one Sade Venkatarao and his sons killed Vadapalli, father of PWs.1 to 4. Six months later to the incident, PWs.2 and 3 killed the above said Sade Venkatarao. In the second incident, both the accused were convicted. Three months prior to the incident, A-7 and his sons attacked one Satyavathi who is PW-1's sister-in-law. A-8 got filed a case against the prosecution party with the complaint of A-7's daughter with self-inflicted injuries. In fact, on 29.9.2005 at 11.30 a.m. PW-2 was coming to home on his bicycle with a fertilizer bag. At that time, A-1 who was near the house of one Nalla Chandrayya spitted on the foot of PW-2 while he was passing through the way. PW-2 in turn complained the same to Toram Pullaiah and others. Then A-1 to A-9 assaulted PW-2. When PWs.1, 2 and 4 went to the rescue of the said Vasaka Chinna Satyanarayana, the accused also attacked all

of them. In connection with that, PW-3 lodged a complaint against the accused. In the said incident, Sade Nagaraju, Sade Veeraswamy and A-9 also sustained injuries. A-9 also took treatment in the Community Health Centre, Kothapeta while the other two persons were sent to the Government General Hospital, Kakinada. At about 9 p.m. all the accused entered into the hospital with deadly weapons in their hands. A-8 instigated others to kill all the four persons. A-1 hacked PW-2 with axe on his head, A-3 hacked PW-3 with an axe on his back with a khaizer, A-4 stabbed PW-4 with a khaizer on her head and back, A-5 beat PW-1 with a wooden plank on his two hands and two legs and also on head, A-6 with a stick assaulted all the four persons, A-7 also assaulted PWs.1 to 4 with sticks, A-9 who was in the hospital, joined with other accused, picked up a stick and beat PW-4 on all over the body. PWs.1 to 4 raised hue and cry, whereupon all the accused left the place. Meanwhile, PW-5, a staff nurse in the Government Hospital, Kothapeta, having heard the hue and cry from the casualty Ward, rushed towards the Ward, found the accused running away from the said place. She also noticed the accused leaving M.Os.1 to 3 i.e. khaizer, axe and wooden plank at the hospital. On a complaint, a case was registered vide Crime No.136 of 2005 for the offences under Sections 307, 324 r/w 34 IPC. After investigation, a charge sheet was laid. The Court below after taking cognizance of the offences against the accused, numbered the case as SC.No.296 of 2009. On appearance of the accused, in compliance with Section 207 Cr.P.C., the copies of documents and other relevant material furnished to the accused. At the time of

framing charges, when the accused were heard, they pleaded not guilty and claimed to be tried.

To bring home the guilt of the accused, the prosecution in all examined PWs.1 to 13 and marked Exs:P-1 to P-23 and M.Os.1 to 9. In defence, Exs:D-1 to D-13 are marked. After closure of prosecution evidence, the accused were examined under Section 313 Cr.P.C. explaining the incriminatory evidence brought on record for which they denied the same and claimed innocence. The learned Assistant Sessions Judge, Kothapeta, after hearing and analyzing the evidence brought on record, by judgment dated 11.04.2014, acquitted all the accused for the offences with which they are charged. Aggrieved by the same, the present criminal revision case is filed.

Learned counsel appearing for the petitioner would contend that the judgment of the Court below, is contrary to the evidence of PW-5 who is an eyewitness, the doctors i.e. PWs.9 and 13, apart from Exs:P-5 to P-8 i.e. the wound certificates. The learned counsel while making submissions brought to the notice of this Court the relevant portion in the impugned judgment at para 15. From the said para, it can be safely inferred that PW-5 had not carried the torch-light and it would not be possible to identify anybody without the help of torch-light. Be that as it may, she also did not identify even a single accused before the Court. Basing on this, the learned counsel also further submitted that for the last more than 20 years, land disputes exist between both the groups. That apart, he also submitted that the injury certificates i.e. Exs.P-5 to P-8 also indicate

that the respondents 2 to 9, have attacked, causing injuries to the petitioner herein who is PW-1 and others. When the petitioner has categorically pleaded that there is a motive and even if the motive part is established through the evidence of PWs.1 to 4 to bring home the guilt of the accused, the chain has to be established. To establish the said link, PW-5 is the important witness who speaks about the participation of the respondents 2 to 9 in the said commission of the offence. However, in her cross-examination before the Court she has categorically pleaded that at the time of the incident, there was power failure and she was not carrying any torch-light. In the light of the said admission, it is difficult to understand as to how PW-5 identified the accused. Even in the Court, PW-5 could not identify the accused. That being so, when the accused are not identified, merely because the wound certificates have been issued by the doctor which cannot pre-suppose as to respondents 2 to 9 are responsible for causing the said injuries. Unless and until, the prosecution establishes the chain, more particularly causing of injuries, it cannot be said that the accused are the persons who caused the said injuries. Even going by the arguments of the learned counsel appearing for the petitioner the material objects i.e. M.Os.1 to 3 used in the commission of offence are also recovered. He fairly conceded that the finger prints of the accused were not taken for the purpose of identification of the said material objects. Even on this count also, the prosecution failed to prove the guilt of the accused. So, on all these three counts, the prosecution has not established the commission of the offence by the respondents 2 to 9. Therefore, this

Court is of the opinion that there is no irregularity or illegality in the judgment passed by the learned Assistant Sessions Judge. Therefore, there are no merits in the revision and it is liable to be dismissed.

Accordingly, the criminal revision case is dismissed.

Miscellaneous petitions, if any, pending in this criminal revision case shall stand dismissed.

Date:10.09.2018
ccm

P. KESHA VA RAO,J



HON'BLE SRI JUSTICE P. KESHA RAO



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