

**THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER**

**CRIMINAL APPEAL No.364 OF 2011**

**JUDGMENT:**

This Criminal Appeal, under Section 372 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C'), is filed by the appellant/complainant aggrieved by the judgment, dated 04.02.2010, rendered in Sessions Case No.26 of 2007 on the file of Special Judge for SC/ST (POA) Cases, Warangal, whereby and whereunder, respondent No.2/accused was found not guilty of the offences under Section 353 IPC and Section 3 (1) (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Act'), and accordingly, he was acquitted.

2. Heard the learned counsel for the appellant/complainant and the learned counsel for the 2<sup>nd</sup> respondent/accused. Perused the record.

3. Learned counsel for the appellant/complainant would contend that there is specific evidence of P.Ws.1 and 6 with regard to the abuses made by the 2<sup>nd</sup> respondent/accused in the name of caste of P.W.1; that the delay of 10 days in lodging the report by the appellant is not fatal to the case of the prosecution; that the investigation conducted by the police also reveals the commission of offences under Section 353 IPC and Section 3 (1) (x) of the Act; that the trial Court had erroneously acquitted the accused for the aforesaid offences, though there is ample evidence on record; that 2<sup>nd</sup> respondent/ accused got acquaintance with P.W.1 and there is ample evidence to substantiate the same and ultimately prayed to

allow the appeal and set aside the judgment of the trial Court and convict the 2<sup>nd</sup> respondent/accused for the offences under Section 353 IPC and Section 3 (1) (x) of the Act.

4. Learned counsel for the 2<sup>nd</sup> respondent/accused would contend that the report in the subject case was lodged with a delay of 10 days; that in the report, there is no mention of abuses in the name of caste of P.W.1; that P.W.1 is a stranger to the 2<sup>nd</sup> respondent/accused, and P.W.1 joined duty in the bank two months prior to the date of alleged offence. Further, the alleged offence has taken place at 6:00 PM after closure of the bank hours and not in the public view. The trial Court, having elaborately examined all the contentions, rightly acquitted the 2<sup>nd</sup> respondent/accused for the charges under Section 353 IPC and Section 3 (1) (x) of the Act. There is no evidence on record to constitute the aforesaid offences and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made, the points that arise for consideration in this appeal are:

- 1) Whether the 2<sup>nd</sup> respondent/accused had abused the appellant/complainant on 14.09.2006 at 6:00 PM in the name of his caste constituting the offence under Section 3 (1) (x) of the Act?
- 2) Whether the 2<sup>nd</sup> respondent/accused deterred the appellant and other employees in the bank from discharging their official duties?
- 3) Whether the acquittal recorded by the trial Court for the offences under Section 353 IPC and Section 3 (1) (x) of the Act is liable to be set aside?
- 4) To what relief?

6. **POINT Nos. 1 to 4:**

P.W.1 is working as Assistant Manager in State Bank of Hyderabad, Neckonda Branch and aggrieved person in this case. P.Ws.2 to 4 are said to be eyewitnesses to the incident. But, they did not support the case of the prosecution and declared as hostile. The alleged offence took place at 6:00 P.M that is after closure of the bank. Admittedly, the report with the police concerned was lodged with a delay of 10 days. There is no explanation from P.W.1 with regard to delay. Furthermore, it is pertinent to mention that two months prior to the alleged occurrence, P.W.1 joined in State Bank of Hyderabad as Assistant Manager. There is no evidence to substantiate that there was prior acquaintance in between the accused and P.W.1 and so also the accused was not having any account in the said bank as on the date of alleged offence. Though P.W.6 stated with regard to the alleged offence, as the time of offence is at 6:00 PM, that is after closure of bank, it cannot be said that the offence took place in public view, which is an essential requirement to constitute the offence under Section 3 (1) (x) of the Act.

7. As far as the offence under Section 353 IPC is concerned, there is no iota of evidence to substantiate that P.W.1 was deterred by the accused from discharging his duties or used criminal force against him. Had 2<sup>nd</sup> respondent/accused thrown chappal on the appellant, certainly the other co-employees would have supported the case of the prosecution. Delay of 10 days in lodging of Ex.P.1-report is also fatal to the case of prosecution. All the contentions were elaborately dealt with and answered by the trial Court. The

findings recorded by the trial Court are in consonance with the evidence on record. There is no infirmity in the impugned judgment. Under these circumstances, the appeal is devoid of merit and is liable to be dismissed.

8. Accordingly, the Criminal Appeal is dismissed confirming the judgment, dated 04.02.2010, in Sessions Case No.26 of 2007 passed by the Special Judge for SC/ST (Prevention of Atrocities) Cases at Warangal.

Miscellaneous Petitions, if any, pending in this Criminal Appeal shall stand closed.

**JANUARY 22, 2019**  
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**Dr. SHAMEEM AKTHER, J**

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