

High Court for the State of Telangana

The Hon'ble The Chief Justice Raghvendra Singh Chauhan

and

The Hon'ble Sri Justice T.Amarnath Goud

Crl. A. No. 485 of 2015

Date: 09-07-2019

Between:

State of Telangana
Rep. by its Public Prosecutor
High Court of Andhra Pradesh,
Hyderabad

...Appellant

and

Gajjala Krishnaiah and another

...Respondents

Counsel for the appellant: Mr. M. Achutha Reddy

Counsel for the respondents: Public Prosecutor

The Court made the following:

Judgment: (per Hon'ble The Chief Justice Raghvendra Singh Chauhan)

The State has filed the present appeal against the acquittal of the respondents, namely Gajjala Krishnaiah (accused No. 2), and Gajjala Sambasivudu (accused No. 3), of the offence under Section 302 r/w 34 IPC, by the III Additional District and Sessions Judge (Fast Track Court) Gadwal, *vide* judgment dated 12-03-2013, in S.C.No.311 of 2012.

Briefly, the facts of the case are that on 03-09-2011, around 4:00 p.m., Anjaneyulu (PW.1) lodged a report at the Police Station, Dharoor, wherein he claimed that on that day around 10:00 a.m., he went to his agricultural field along with his family members. When they were working, his neighbour, Gajjala Anjaneyulu (accused No. 1), came with a tractor, and ploughed their land. When his father, Dodla Mashanna, objected to the same, accused No. 1 beat him with a stick. His father received bleeding injury on his head. On the basis of this complaint, a formal FIR, namely FIR No. 84 of 2011, was chalked out for the offence under Section 324 IPC. However, with the death of the deceased

Dodla Mashanna, the offence was converted from the one under Section 324 IPC to one under Section 302 IPC.

During the course of investigation, the police arrested not only Gajjala Anjaneyulu (accused No. 1), but also the respondents; they were put on trial. In order to support its case, the prosecution examined eleven witnesses, submitted ten documents, and produced three articles. On the other hand, the defence neither examined any witness, nor relied on any documentary evidence. After appreciating the evidence, by the judgment under appeal, the learned trial court convicted Gajjala Anjaneyulu (accused No. 1) for the offence under Section 302 IPC, but acquitted the respondents as aforementioned. Hence, the present appeal by the State before this Court.

The learned Public Prosecutor has strenuously pleaded that not only the presence of the respondents at the scene of the crime, but also their assaulting the deceased with sticks on his back is spoken to by Anjaneyulu (PW.1), Govindamma (PW.2), S. Anjaneyulu (PW.3) and P. Thippanna (PW.5). Hence, their presence, and their act of assaulting the deceased should not have been doubted by the

learned trial Court. Therefore, the learned trial Court has erred in acquitting the respondents.

On the other hand, Mr. M. Atchuta Reddy, the learned counsel for the respondents, submits that in his initial complaint (Ex.P.1), Anjaneyulu (PW.1) did not even mention the presence of the respondents at the scene of crime. It was only in the second complaint (Ex.P.2), which was filed twenty four hours after filing of the first complaint, that Anjaneyulu (PW.1) claimed that the respondents had also assaulted the deceased. Thus, Anjaneyulu (PW.1) weaves a fanciful tale as an after-thought. He ropes in innocent persons.

Secondly, the independent witness, Bajaranna (PW.4), did not claim in his testimony that the respondents were present at the scene of the crime. Therefore, their presence, and their alleged act of assaulting the deceased is suspect. Although the eye-witnesses, Anjaneyulu (PW.1), Govindamma (PW.2), S. Anjaneyulu (PW.3), and P. Thippanna (PW.5) claim that the respondents had assaulted the deceased from the back with sticks, neither the testimony of Dr. T. Sai Sudhir (PW.9), nor the Post-Mortem Report

(Ex.P.6) reveal the existence of any injury on the back of the body of the deceased. In fact, the only injuries revealed by the Post-Mortem Report (Ex.P.6) are either on the head, or on the front part of the chest. Therefore, the testimonies of Anjaneyulu (PW.1), Govindamma (PW.2), S. Anjaneyulu (PW.3), and P. Thippanna (PW.5) are belied by the Post-Mortem Report (Ex.P.6), and by the medical witness (P.W.9). Therefore, the learned trial Court was justified in granting the benefit of doubt to the respondents.

Lastly, the scope of interference with an acquittal order by the appellate court is extremely limited. For, once an acquittal has been recorded by the learned trial Court, the presumption of innocence is further strengthened. Moreover, in case, the trial Court has taken a reasonable view of the evidence produced by the prosecution, and acquitted the accused, ordinarily, such a reasonable view should not be interfered with by the appellate court. Therefore, the learned counsel for the respondents has supported the acquittal order.

Heard the learned counsel for the parties, and perused the impugned judgment.

It is, indeed, a settled principle of law that interference with an acquittal order falls within a very limited scope. If a reasonable view has been taken by the learned trial Court, since the presumption of innocence stands strengthened, the appellate court ordinarily should not interfere with the acquittal order. [Ref. to **Mohd. Akthar alias Kari and others. vs. State of Bihar and another**¹.]

A bare perusal of the impugned judgment clearly reveals that the learned trial court has clearly noticed the fact that in the first complaint (Ex.P.1), Anjaneyulu (PW.1) had neither mentioned about the presence of the respondents, nor assigned any overt act to them. Even in his cross-examination, he admitted to the said fact. It is only subsequently, after a lapse of twenty four hours, while filing the second complaint (Ex.P.2), that for the first time, Anjaneyulu (P.W.1), mentions the presence of the respondents at the scene of the crime, and assigns an overt act to them. Therefore, their presence is highly suspect. The learned trial court is justified in concluding that since a second complaint was filed after lapse of twenty four hours

¹ (2019) 2 Supreme Court Cases 513

of the occurrence, it is a case of roping in of innocent persons as a fanciful tale is being woven by Anjaneyulu (PW.1).

A bare perusal of the testimony of Bajaranna (PW.4) an independent witness, clearly reveals that according to him, only accused No. 1 was present at the scene of the crime. He neither mentions the presence of the respondents at the scene of the crime, nor assigns any overt act to them. Therefore, he clearly contradicts the testimonies of Anjaneyulu (PW.1), Govindamma (PW.2), S. Anjaneyulu (PW.3), and P. Thippanna (PW.5). Since these witnesses are related to the deceased, there is a grave possibility that they have roped in innocent persons, whereas Bazaranna (PW.4), who is an independent witness, speaks the truth, and informs the Court that only Gajjela Anjaneyulu (accused No. 1) had assaulted the deceased. According to him, the respondents were not even present at the scene of the crime.

The testimony of the eye-witnesses, Anjaneyulu (PW.1), Govindamma (PW.2), S. Anjaneyulu (PW.3), and P. Thippanna (PW.5), is further belied by the Post-Mortem Report (Ex.P.6). For, in their testimonies, they claimed that

the respondents had assaulted the deceased from back with sticks. However, the Post-Mortem Report (Ex.P.6) issued by Dr. T. Sai Sudheer (PW.9) does not reveal the existence of any injury on the back of the deceased. Therefore, the learned trial Court was certainly justified in acquitting the respondents (accused Nos.2 and 3).

For the reasons stated above, this Court does not find any merit in the present appeal. Therefore, this appeal is, hereby, dismissed.

(Raghvendra Singh Chauhan, CJ)

(T.Amarnath Goud, J)

Dt: 9th July, 2019
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