

**THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND**

THE HONOURABLE SRI JUSTICE A. ABHISHEK REDDY

CRIMINAL APPEAL No. 1231 OF 2012

JUDGMENT: (Per Hon'ble the Chief Justice Raghvendra Singh Chauhan)

Aggrieved by the judgment of acquittal, dated 09.11.2012, passed by the Assistant Sessions Judge, Siddipet, whereby the learned trial Court has acquitted the respondent Nos. 2 to 6, namely, Poola Balakrishna Reddy (A-4), Poola Yadava Reddy (A-5), Poola Rajender Reddy (A-6), Poola Narsimha Reddy (A-7), and Beeram Ramesh (A-8), for the offences under Sections 147, 148, 307 and 341 IPC, the complainant, Mr. K. Durga Reddy, has filed the present appeal before this Court.

Briefly, the facts of the case are that Poola Balakrishna Reddy (A-4) had taken a harvester tractor on lease from one Bhasker Reddy of Siddipet. He used to park the said tractor in an open place, near the Ram Mandir temple, belonging to Reddy Sangam. But, the members of Reddy Sangam of Yellupally village had decided not to allow anyone to park vehicles in the open place. On 10-09-2010, K. Durga Reddy (P.W. 1) informed Mr. Bhasker Reddy, the owner of harvester, about the said decision of Reddy Sangam. He also informed Telu Mallaiah (P.W. 9) about the said decision. In turn, Telu Mallaiah (P.W. 9), informed Poola Narsimha Reddy (A-7) about the said decision. On 10-09-2010, some unknown persons deflated the tyres of harvester tractor belonging to A-4. Consequently, on 11-09-2010, a complaint was filed with the police wherein it was stated that the complainant suspected that K. Durga Reddy (P.W. 1), his brother, Narsimha Reddy (P.W.

6), his brother-in-law, Potharam Ram Reddy were the persons, who had deflated the tyres of the harvester. Therefore, on 12-09-2010 at about 2:00 p.m., police called K. Durga Reddy (P.W. 1) and others to the Police Station. K. Durga Reddy (P.W. 1), Narsimha Reddy (P.W. 6) and some other villagers went to the Police Station, and returned to Yellupally village. K. Durga Reddy (P.W. 1) and P. Ashi Reddy (P.W. 2) left the Police Station by TVS vehicle in order to reach their village. However, on the way, around 3:30 p.m., when they reached near Raja Rajeshwari Poultry farm, they were suddenly followed by Chennoji Satyam (A-3) and four other persons, who were riding on their vehicles. These persons came from behind the teak trees. They stopped K. Durga Reddy (P.W. 1), and took away the keys of his TVS vehicle. Initially, A-3 and other four persons assaulted K. Durga Reddy (P.W. 1). Subsequently, they dragged him towards the teak trees and threw him on the ground. A-3 assaulted K. Durga Reddy (P.W. 1) on the back of his head with stone, and tried to kill him. Two other persons tied P. Ashi Reddy (P.W. 2) with towel to a tree. Meanwhile, Mallesham (P.W. 5), an advocate, along with Rangadampally Ilaiah, was passing through the area. They heard the cries of K. Durga Reddy (P.W. 1). Mallesham (P.W. 5) stopped his vehicle at the scene of offence. On seeing them, A-3 and two other persons ran away from the scene of the crime. P.W. 1 to P.W. 4 managed to catch the other two culprits. Meanwhile, K. Narsimha Reddy (P.W. 6), his brother, Ramchandra Reddy (P.W. 7), Bapu Reddy, and others also reached the place of crime. These persons handed over the two culprits, who were caught by P.Ws. 1 to 4, to the police. These two persons revealed their names as Chandu (A-1) and V.

Srikanth (A-2). These persons also confessed that A-4 and his brothers Yadava Reddy (A-5), Rajender Reddy (A-6) and their father Narsimha Reddy (A-7), had contacted one Sathyam (A-3) to kill K. Durga Reddy (P.W. 1) due to their old enmity. Since K. Durga Reddy (P.W. 1) was injured seriously, he was shifted to the Government Area Hospital, Siddipet. At the hospital, the Head Constable, Mohd Alimuiddin (P.W. 16) recorded the statement (Ex. P. 1) of K. Durga Reddy (P.W. 1). It is on the basis of this statement, a formal FIR, namely FIR No. 182 of 2010 was chalked out for the offences under Sections 147, 148, 307, 341, 109 r/w 149 IPC against the accused.

During the course of investigation, altogether eight accused persons were arrested and put up for trial. In order to support its case, the prosecution examined eighteen witnesses, submitted ten documents, and three material objects. On the other hand, the defense did not examine any witnesses, but did submit four documents to buttress its case. After appreciating the evidence, by judgment dated 09.11.2012, the learned trial Court convicted A-1 to A-3 for offence under Section 307 IPC, but acquitted them for offences under Sections 147, 148 and 341 IPC. Most importantly, the learned trial Court acquitted the respondents-accused Nos. 4 to 8 of offences under Sections 147, 148, 307, 341 IPC. Hence, the present appeal before this Court against the acquittal of A-4 to A-8 by the complainant.

Mr. A. Chandra Sekhar, the learned counsel for the appellant, has raised the following contentions before this Court:-

Firstly, according to the testimony of the appellant, K. Durga Reddy (P.W. 1), and K. Ramachandra Reddy (P.W. 7), there is an animosity that exists between A-3 to A-7, and the family of the appellant (P.W. 1). Thus, there is a strong motive for A-4 to A-7 for hiring the services of A-1 and A-2 at the behest of A-3 in order to kill the appellant, K. Durga Reddy (P.W. 1).

Secondly, A-1 and A-2 were caught on the spot. During the course of their interrogation, in their confessional statements (Exs. P. 7 and P. 8 respectively), they have confessed that their services were hired, and A-3 to A-7 gave them Rs.10,000/- to kill the appellant. Therefore, the prosecution had succeeded in establishing the involvement of A-4 to A-8 in the alleged offence. Hence, the learned trial Court was not justified in acquitting A-4 to A-8.

On the other hand, Mr. L. Harish, the learned counsel for the respondents-Accused Nos. 4 to 8, has raised the following counter-contentions:-

Firstly, 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, if two views of the evidence are possible, and if 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. In

order to buttress this plea, the learned counsel has relied on the case of **Mohd. Akhtar vs. State of Bihar**¹.

Secondly, even according to the testimony of K. Durga Reddy (P.W. 1), P. Ashi Reddy (P.W. 2), M. Iylaiah (P.W. 3), M. Narsaiah (P.W. 4), V. Mallesham (P.W. 5), K. Narsimha Reddy (P.W. 6), K. Ramchandra Reddy (P.W. 7), J. Pochaiah (P.W. 8), T. Mallaiah (P.W. 9), A-4 to A-8 were not present at the scene of offence when allegedly K. Durga Reddy (P.W. 1) and P. Ashi Reddy (P.W. 2) were assaulted by A-1 to A-3.

Lastly, the confessional statements of A-1 and A-2 (Exs. P. 7 and P. 8 respectively) were made by them while they were in police custody. Therefore, the learned trial Court was justified in not reading the said evidence against the respondents-A-4 to A-8. For, the said statements are hit by Section 25 of the Evidence Act. Therefore, the learned trial Court had reached its conclusion after critically analyzing the evidence produced by the prosecution. Hence, the learned counsel has supported the impugned judgment.

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

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, and since the presumption of innocence stands strengthened, the appellate court ordinarily should not interfere with the acquittal order. [Ref. to **Mohd. Akhtar** (supra)]

¹ (2019) 2 Supreme Court Cases 513

A bare perusal of the testimonies of P.Ws. 1 to 9, all of whom are eyewitnesses of the occurrence, clearly shows that they do not name A-4 to A-8 as the assailants. According to these witnesses, it is only A-1 and A-2, who were caught by them and produced before the police. Therefore, the physical involvement of A-4 to A-8 in assaulting K. Durga Reddy (P.W. 1) and in tying P. Ashi Reddy (P.W. 2) is conspicuously missing.

According to the prosecution case, A-1 and A-2 had given the confessional statements (Exs. P. 7 and P. 8 respectively) during the course of their interrogation. Since these statements were made during the police custody, obviously, these statements are hit by Section 25 of the Evidence Act. Therefore, the said evidence is inadmissible against A-4 to A-8.

According to K. Durga Reddy (P.W. 1), there was an animosity that had developed between him and A-3 to A-7 ostensibly, on the ground that A-3 to A-7 suspected that it was K. Durga Reddy (P.W. 1), K. Ramachandra Reddy (P.W. 7), and his family members, who had deflated the tyres of the harvester. However, the mere existence of a motive cannot form the basis of a conviction. For, such a conviction would be based on surmises and conjectures, and not on cogent and convincing evidence.

As far as A-8 is concerned, the learned trial Court has critically analyzed the evidence, and has concluded that there is no evidence against A-8. There is not even an iota of evidence to establish that A-8 bore any grudge against K. Durga Reddy (P.W. 1). Therefore, the learned trial Court was certainly justified in acquitting the accused-respondents.

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

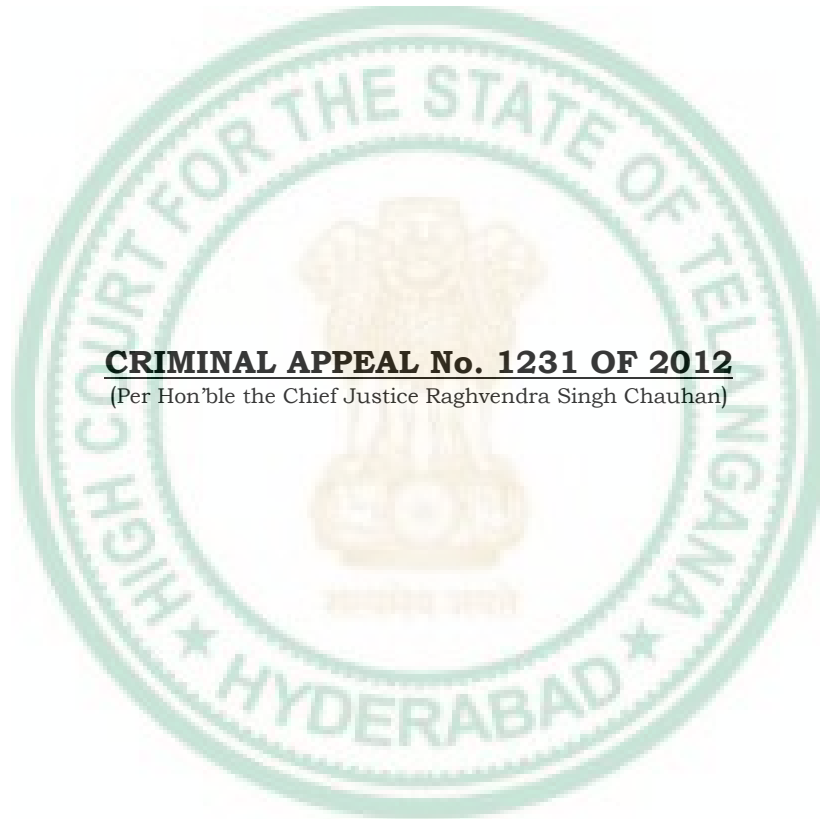
A. ABHISHEK REDDY, J

Date: 17.09.2019
Tsr



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