

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL APPEAL No.964 of 2017

Judgment:

1. Feeling aggrieved by Judgment, dated 24.08.2015, in Spl.S.C.No.63 of 2011 on the file of the Special Sessions Judge for trial of Offences under SCs & STs (POA) Act, Karimnagar, whereby the respondent/accused was acquitted of the charges under Sections 447 & 506 IPC and Section 3(1)(x) of SCs & STs (POA) Act, 1989, the State preferred this Appeal.

2. The case of the Prosecution is that PWs.1 to 4, who are victims, are brothers. PWs.1 to 4 claim to have purchased land admeasuring Acs.3-20¹/₂ guntas from the father of the respondent/accused in the year 2006 by way of simple sale deed and since then, they had been cultivating the same. After the death of the father of the respondent/accused in the year 2007, PWs.1 to 4 claim to have approached the respondent/accused seeking registration of the said land for which the respondent/accused refused. On 03.06.2011, when PWs.1 to 4 along with their uncle were ploughing the said land, the respondent/accused came there, abused them in the name of their caste and threatened them with dire consequences, if they enter the said land. On a complaint made by P.W.1, a case in Crime No.85 of 2011 was registered against the

respondent/accused for the offences under Sections 447 & 506 IPC and Section 3(1)(x) of SCs & STs (POA) Act, 1989. After completion of investigation and filing of charge sheet, the learned Judicial Magistrate of First Class, Godavarikhani committed the same to the trial Court wherein it was taken on file as Spl.S.C.No.63 of 2011.

3. The respondent/accused stood trial for the charges framed under Sections 447 & 506 IPC and Section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (POA) Act, 1989.

4. In support of its case, the Prosecution has examined PWs.1 to 11 and got Exs.P.1 to P.10 marked. On behalf of the defence, no oral evidence was let in. However, it has got Exs.D.1 to D.3 marked.

5. On appreciation of the oral and documentary evidence, the lower court has acquitted the respondent/accused.

6. We have heard the learned Public Prosecutor appearing for the State of Telangana and Mr.M.A.Baig, learned Counsel for the respondent/accused.

7. While relying on the evidence of PW.1, the lower court observed that the simple sale deed claimed to have been executed by the father of the respondent/accused in favour of PWs.1 to 4 has not been filed before the court. The lower court also relied on the admission made by PW.1 to the effect that the

mother of the respondent/accused filed OS.No.93 of 2010 on the file of the Junior Civil Judge, Manthani, against PWs.1 to 4 and obtained interim injunction against them, and observed that PWs.1 to 4 have entered the subject land despite there being an injunction order. The lower court also noted the fact that though PWs.1 to 4 claimed possession over the subject land, the documents filed by them in support thereof *i.e.*, Exs.P.2 to P.5-pahanis reflect the name of the deceased father of the respondent/accused and not the names of PWs.1 to 4.

8. The lower court relied on the evidence of the respondent/accused to hold that after the death of the father of the respondent/accused, his mother was given pattedar pass book and title deed books and that the same is supported by Ex.D.3- certified copy of the title deed book issued in her favour.

9. While relying on the admission made by PW.2 that they proposed for a compromise with the mother of the respondent/accused after filing of the suit, which failed, the lower court observed that this case might have been filed by PWs.1 to 4 to pressurize the respondent/accused and his mother to enter into compromise. The lower court disbelieved the evidence of PW.5 as he admitted that he had not witnessed the incident and that PWs.1 to 3 are his brothers. Accordingly, the

lower court held that the offence under Section 447 IPC was not established by the Prosecution.

10. As regards the offence under Section 3(1)(x) of SCs & STs (POA) Act, 1989, the lower court relied on the decisions reported in **Gorige Pentaiah vs State of A.P. & Others**¹, and **J.Sumana vs. Endluri Aseerwadamma and another**² wherein it was held that as per the said provision, the complainant ought to have alleged that the accused was not a member of the Scheduled Caste or a Scheduled Tribe and he was intentionally insulted or intimidated by the accused with intend to humiliate in a place within public view. Accordingly, the lower court held that the offence alleged to have been occurred in the disputed land is a private land and it is not a public place and no public view is established by the prosecution in this case and therefore, the respondent/accused is entitled for a benefit of doubt.

11. On a proper appreciation of the above discussed evidence, the lower court has acquitted the respondent/accused. The law is well settled that in an appeal arising out of acquittal, the appellate court would, ordinarily, not reverse the findings of the lower court unless they are perverse and contrary to the evidence on record.

¹ (2008) 12 Supreme Court Cases 531

² 2003 (1) ALD (Crl.)252

12. In the light of the above settled legal principles and the reasons assigned by the lower court on appreciation of the evidence, which are not only sound but also rational, this Court does not find any merit in this Criminal Appeal and the same is, accordingly, dismissed.

13. Miscellaneous applications, if any, pending shall stand dismissed.

(G. SRI DEVI, J)

Dt: 12th August, 2021
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