

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THURSDAY, THE TWENTY FIFTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY ONE**

PRESENT

THE HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL APPEAL NO: 1058 OF 2009

Criminal Appeal under Section 378 (1) & (3) of Cr.P.C against the Judgement dated 19.02.2008 in SC.No.153 of 2007 on the file of the Court of the Assistant Sessions Judge, Nalgonda.

Between:

The State of A.P., Rep. by the Public Prosecutor, High Court of A.P., Hyderabad

...APPELLANT/PETITIONER

AND

Ananthula Shankaraiah, S/o. Maraiah, 50 years, R/o. Altipamula Village,
Nalgonda District

...RESPONDENT/ACCUSED

Counsel for the Appellant: THE PUBLIC PROSECUTOR

Counsel for the Respondent: SRI. M. V. HANUMANTHA RAO

The Court delivered the following: JUDGMENT

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL APPEAL NO.1058 OF 2009

JUDGMENT:

Appellant-State filed the present Criminal Appeal by invoking the provision under Section 378(1) and (3) of the Code of Criminal Procedure (Cr.P.C.) challenging the judgment dated 19.02.2008 rendered in S.C.No.153 of 2007 wherein and whereby the Assistant Sessions Judge, Nalgonda, acquitted the accused for the offence punishable under Section 307 of the Indian Penal Code (IPC).

The case of the prosecution, in brief, is that on 24.07.2006 at about 7.00 am, the accused picked up quarrel with one Kondaiah (P.W.2) at their agricultural fields over family disputes and beat him with hunting sickle on the stomach and also hit on head causing bleeding injury with an intention to kill him. Hence, the case.

This Court perused the entire impugned judgment and also heard the arguments.

In view of the fact that the Investigating Officer registered a case in Crime No.95 of 2006 basing on the complaint of the accused, which shows that P.W.2 first attacked the accused with a stick and in order to protect himself, the accused beat him with toddy tapping sickle and as it was held that the accused rightly exercised the right of private defence, the learned trial Judge acquitted the accused. The reasons assigned by the learned trial Judge are well in accordance with law and the trial Court has appreciated the entire evidence in proper perspective.

Further, in an appeal against acquittal, the scope of this Court is very limited and if any perversity or illegality appears on

the face of the record, then only this Court can interfere with the finding of the lower Court. It is well settled that in an appeal against acquittal, the Appellate Court can interfere only when there is possibility of one view, which is pointing towards the guilt of the accused. When there is possibility of two views and one view, which is in favour of the accused, is taken into account and the accused is acquitted by the competent Court, there is no need to interfere with the order passed by the trial Court.

In ***Mrinal Das v. State of Tripura***¹ the Apex Court held as under:

"It is clear that in an appeal against acquittal in the absence of perversity in the judgment and order, interference by this Court exercising its extraordinary jurisdiction, is not warranted. However, if the appeal is heard by an appellate court, being the final court of fact, is fully competent to re- appreciate, reconsider and review the evidence and take its own decision. In other words, law does not prescribe any limitation, restriction or condition on exercise of such power and the appellate court is free to arrive at its own conclusion keeping in mind that acquittal provides for presumption in favour of the accused. The presumption of innocence is available to the person and in criminal jurisprudence every person is presumed to be innocent unless he is proved guilty by the competent court. If two reasonable views are possible on the basis of the evidence on record, the appellate court should not disturb the findings of acquittal. There is no limitation on the part of the appellate court to review the evidence upon which the order of acquittal is found and to come to its own conclusion. The appellate court can also review the conclusion arrived at by the trial Court with respect to both facts and law. While dealing with the appeal against acquittal preferred by the

¹ (2011) 9 SCC 479

State, it is the duty of the appellate court to marshal the entire evidence on record and only by giving cogent and adequate reasons set aside the judgment of acquittal. An order of acquittal is to be interfered with only when there are 'compelling and substantial reasons' for doing so. If the order is "clearly unreasonable", it is a compelling reason for interference. When the trial Court has ignored the evidence or misread the material evidence or has ignored material documents like dying declaration/report of ballistic experts etc., the appellate court is competent to reverse the decision of the trial Court depending on the materials placed."

In **Maloth Somaraju v. State of Andhra Pradesh**² the Apex Court held that there can be no two opinions that merely because the acquittal is found to be wrong and another view can be taken, the judgment of acquittal cannot be upset. The appellate Court has more and serious responsibility while dealing with the judgment of acquittal and unless the acquittal is found to be perverse or not at all supportable and where the appellate Court comes to the conclusion that conviction is a must, the judgment of acquittal cannot be upset. The appellate Court has to examine as to whether the trial Court, while upsetting the acquittal, has taken such care.

In view of the judgments referred to above and having regard to the facts and circumstances of the case, I am of the view that there are no merits in the appeal and the same is liable to be dismissed.

Hence, the Criminal Appeal is dismissed confirming the judgment dated 19.02.2008 passed in S.C.No.153 of 2007 on the file of the Assistant Sessions Judge at Nalgonda.

² [2011] 8 SCC 635

Miscellaneous applications, if any, pending shall stand dismissed.

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SD/-CH.VENKATESWARULU
DEPUTY REGISTRAR

HL

SECTION OFFICER

To,

1. The Assistant Sessions Judge, Nalgonda. (with records)
2. The Judicial First Class Magistrate, Nakrekal, Nalgonda District.
3. The Station House Officer, Kattanagur Police Station, Nalgonda District.
4. One CC to Sri. M. V. Hanumantha Rao, Advocate [OPUC]
5. Two CCs to Public Prosecutor, High Court for the State of the Telangana at Hyderabad. [OUT]
6. Two CD Copies

gbr

[Signature]

HIGH COURT

DATED:25/02/2021



JUDGMENT

CRLA.No.1058 of 2009

DISMISSING THE CRIMINAL APPEAL.

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