

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL APPEAL NO.1057 OF 2009

JUDGMENT:

This appeal is preferred by the State against the judgment of the learned Assistant Sessions Judge at Adilabad, for enhancement of the sentence awarded in S.C.No.341 of 2006 dated 17.08.2007, whereby, the respondents/A-1, A-2 and A-4 were convicted for the offence punishable under Section 324 of the Indian Penal Code (IPC) and sentenced to pay a fine of Rs.1,000/- each, in default to suffer rigorous imprisonment for two months. The respondents/A-1 to A-5 were acquitted for the offence punishable under Section 307 IPC.

The case of the prosecution, in brief, is that on 08.01.2006 at 9.15 pm the complainant lodged a complaint stating that at about 7.00 pm the respondents/A-1 to A-5 went to the house of the complainant with an intention to kill the family members of the complainant, beat the complainant and his sons with sticks and iron rods on their heads and caused bleeding injuries due to previous enmity.

On appearance of the accused, charge under Section 307 IPC came to be framed, read over and explained to the accused, to which they pleaded not guilty and claimed to be tried.

The prosecution, in order to prove its case, examined P.Ws.1 to 10 and got marked Exs.P1 to P9 and MOs 1 and 2. After closure of the prosecution evidence, the accused were examined under Section 313 Cr.P.C. No oral or documentary evidence was adduced on behalf of the accused.

The trial Court, on appraisal of entire evidence both oral and documentary, held that the prosecution has proved the offence under Section 324 IPC against A-1, A-2 and A-4 and accordingly convicted and sentenced them as stated supr. Aggrieved by the same, the State preferred this appeal for enhancement of sentence.

Heard and perused the record.

The State has not filed any appeal against the acquittal of the respondents/A-1 to A-5 for the offence punishable under Section 307 IPC. This appeal relates to the offence committed by the respondents/A-1, A-2 and A-4 under Section 324 IPC, whereby the State seeks enhancement of punishment.

From the evidence of P.Ws.1 to 10, it is clearly established that the incident occurred at the house of P.W.1 and P.W.1 sustained injury in the hands of A-1, P.W.2 sustained injury by A-2 and A-4. The ingredients of Section 307 IPC are not established since the weapon used is stick, as admitted by the witnesses. Therefore, in this view of the matter, the trial Court was right in imposing fine against A-1, A-2 and A-4.

Hence, the Criminal Appeal is dismissed confirming the judgment dated 17.08.2007 passed in S.C.No.341 of 2006 on the file of the Assistant Sessions Judge at Adilabad.

Miscellaneous applications, if any, pending shall stand dismissed.

(G. SRI DEVI, J)

25th February 2021
RRB