

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL APPEAL No.1020 of 2011

JUDGMENT:

Heard learned Additional Public Prosecutor who is representing the appellant-State. Though Sri K.Pawan Kumar, advocate, is on record representing the respondents/accused, learned counsel failed to make his appearance and submit his contentions.

2. Challenge in this Criminal Appeal is the judgment that is rendered by the Court of Assistant Sessions Judge, Nalgonda in S.C.No.4 of 2007, dated 10.10.2007.

3. The respondents (hereinafter referred to as "the accused" for convenience of discussion) were charged with the offence punishable under Section 307 r/w 34 IPC. Having found not guilty of the said offence, the accused were acquitted. Aggrieved by the said acquittal, the State is before this Court.

4. Making his submission, learned Additional Public Prosecutor contends that though the prosecution examined as many as eight witnesses and produced the relevant documents, the trial Court acquitted the accused. Learned

Additional Public Prosecutor also states that though there are minor discrepancies in the evidence of the witnesses, yet basing on the testimony of the injured i.e., P.W-1, the trial Court ought to have convicted the accused. Learned Additional Public Prosecutor further submits that even the eye-witnesses supported the case of the prosecution and likewise, recovery of weapon i.e., MO-2-knife and the nature of injuries sustained by P.W-1 are also established by the prosecuting agency. Learned Additional Public Prosecutor finally states that considering the evidence thus produced, by allowing the appeal, the accused may be convicted.

5. The case of the prosecution in nut-shell, as could be perceived through the contents of the charge sheet, is that there were disputes between the accused and P.W-1. P.W-1 also filed a civil suit. P.W-1 directed the accused not to cut the paddy crop in the disputed land. On 01.5.2006, the accused observed P.W-1 going to Panagal. While P.W-1 was returning from Panagal on his motorcycle, the accused attacked him near Amulya Colony Water tank, Nalgonda. Accused No.1 inflicted injuries on P.W-1 with a knife with

an intention to kill. Though P.W-1 has chased, he escaped. The accused thus tried to kill P.W-1.

6. In the complaint, P.W-1 narrated that on 01.5.2006, at about 7.45 pm., while he was proceeding on a motor cycle, some persons came in the opposite direction, armed with knives and attacked him and beat him with those knives. He left the motor cycle and while he was running away, he was chased by those persons raising cries. Among those persons, he can identify Venkataiah. He further stated that as he filed a case against accused No.3, one Muthaiah and one Lingamma, they attacked him. However, P.W-1 while giving evidence before the Court stated that accused No.1 came from his behind and stabbed him with a knife. He also deposed that accused No.3 beat him with a stone on the back of his head and accused No.2 instigated accused Nos.1 and 3 to kill him.

7. As rightly observed by the learned judge of the trial Court, such a version is not narrated in Ex.P-1-complaint. In Ex.P-1-complaint, P.W-1 did not even state in clear terms that the accused herein are the persons who attacked

him. He only expressed a doubt. Also, the use of stone was not stated anywhere in Ex.P-1-complaint.

8. P.W-2 failed to support the case of the prosecution. The evidence of P.W-3 is that himself and one Jakir Hussain noticed P.W-1 running and they also found injury on his body. He also stated that they noticed accused No.1 chasing P.W-1 holding a knife and accused Nos.2 and 3 approached P.W-1 shouting. P.W-3 during the course of his cross-examination stated that he did not state to Police that he saw and identified the accused in the light of his headlight and street light. It is not the version of the prosecuting agency that P.W-3 got admitted P.W-1 at hospital. Even in Ex.P-1-complaint, P.W-1 did not state that the incident was noticed by P.W-3. When the injured i.e., P.W-1 could not identify the accused, it is not known how P.W-3 identified the accused. Even if it is taken that P.W-3 has identified the accused, the natural expectation is that he would have informed P.W-1 about the details of the persons who had attacked him. If such a thing had happened, P.W-1 would have narrated the same in Ex.P-1-complaint. However, as earlier indicated, even the presence

of P.W-3 is not stated by P.W-1 in Ex.P-1-complaint. The evidence of P.W-1 only goes to show that there were disputes regarding land between him and the accused. Thus, in the light of the discrepancies in the evidence of the material witnesses, the learned judge of the trial Court passed a judgment of acquittal.

9. In Ex.P-1-complaint, P.W-1 stated that he was beaten with knives. He did not state that knives were used to stab or cut. The evidence of P.W-1 is that he was attacked by the accused with knives with an intention to kill him. However, P.W-8-doctor who examined and treated P.W-1 stated that he found four simple injuries. Further, there is no clear mention about the presence of lighting at the scene of offence or at the place where, as per the version of the prosecution, P.W-3 noticed the accused chasing P.W-1. Thus, it is clear that the prosecuting agency has not produced any cogent and convincing evidence to connect the accused with the crime in question. Having meticulously observed the case details and the evidence produced, the learned judge of the trial Court came to a conclusion that the prosecution failed in establishing the

guilt of the accused beyond all reasonable doubt. Therefore, having considered the discrepancies in the evidence of the prosecution witnesses, this Court concurs with the observations made by the learned judge of the trial Court in the impugned judgment. This Court does not find any grounds, more so justifiable grounds to reverse the findings given by the trial Court, by allowing this Criminal Appeal.

10. Resultantly, this Criminal Appeal is dismissed confirming the judgment that is rendered by the Court of Assistant Sessions Judge, Nalgonda, in S.C.No.4 of 2007, dated 10.10.2007.

11. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Dr. JUSTICE CHILLAKUR SUMALATHA

22.12.2022
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