

THE HON'BLE DR.JUSTICE G. RADHA RANI**CRIMINAL REVISION CASE No. 674 of 2016****ORDER:**

This Criminal Revision Case is filed by the petitioner-appellant-accused against the judgment in Criminal Appeal No.52 of 2015 dated 16.02.2016 confirming the conviction and sentence recorded by the Assistant Sessions Judge, Manthani in Sessions Case No.652 of 2011 dated 05.06.2015 sentencing the petitioner to rigorous imprisonment for a period of two (02) years for the offence punishable under Section 307 of IPC and fine of Rs.2,000/-, in default of payment of fine to suffer imprisonment for a period of two (02) months and further sentencing the petitioner to undergo rigorous imprisonment for a period of six (06) months for the offence punishable under Section 324 of IPC and fine of Rs.500/-, in default of payment of fine to suffer imprisonment for a period of fifteen (15) days and both the sentences to run concurrently.

2. The case of the prosecution in brief was that the complainant was the brother of the injured and the accused was their agnate. The accused constructed a house under Indiramma Pathakam Scheme by encroaching into the land of the complainant. On that, the complainant approached the elders. As the accused had already constructed the house, the elders

advised not to demolish the said house and asked both the parties not to quarrel with each other and to live amicably. Therefore, both the parties kept silent as per the advise of the elders. But, the accused tried to construct a compound wall by encroaching into the land of the complainant, on that the complainant raised objection. Keeping the same in mind, on 05.10.2011 at 5:00 PM when the brother of the complainant went to bore-well for collecting drinking water, the accused came from his behind and stabbed him on his back with an intention to kill him. When the injured raised hue and cry, the villagers came to the spot and rescued him. The knife stabbed by the accused was remained in the body of the injured. The complainant and other villagers took the injured to the Police Station and from there the injured was sent to the Government Hospital, Manthani. The Medical Officer gave first aid to the injured, removed the knife and forwarded it to the Police Station under a letter. The injured had taken further treatment at a private hospital in Karimnagar.

3. Basing on the complaint given by the brother of the injured, the Assistant Sub-Inspector of Police, Manthani registered a case in Crime No.148 of 2011 under Sections 307 and 324 of IPC and issued FIR. He recorded the statements of the complainant and injured, visited the scene of offence and conducted the crime detail form in the presence of witnesses. He also secured the eye-witnesses and recorded their statements. The

accused was apprehended on 07.10.2011 and produced before the court. After completing the investigation, charge-sheet was filed against the accused under Sections 307 and 324 of IPC.

4. The case was taken cognizance by the Judicial Magistrate of First Class, Manthani and after registering it as PRC No.76 of 2011 committed it to the District and Sessions Court, Karimnagar. From there it was made over to the Assistant Sessions Judge, Manthani.

5. Charges were framed under Sections 307 and 324 of IPC by the Assistant Sessions Judge, Manthani. During the course of trial, the prosecution examined PWs 1-17 and got marked Exs.P1 to P15 and MO1. No defence evidence was adduced by the accused. On considering the oral and documentary evidence on record, the Assistant Sessions Judge, Manthani found the accused guilty for the offences punishable under Sections 307 and 324 of IPC and sentenced him as above.

6. Aggrieved by the said conviction and sentence, the accused preferred the appeal. The appeal was heard by the VI Additional District and Sessions Judge, Godavarikhani and vide Criminal Appeal No.52 of 2015 confirmed the conviction and sentence imposed by the trial court vide judgment dated 16.02.2016.

7. Aggrieved further the petitioner-appellant-accused preferred this revision contending that the courts below erred in placing reliance on the interested and discrepant testimonies of PWs 1 to 3. All the witnesses cited as PWs 4 to 8 turned hostile, the panch witnesses for the crime detail form examined as PWs 8 to 9 also turned hostile. The prosecution did not conduct any panchanama for seizure of MO1, the blood stained clothes of PW 2 were not recovered, the sentence was unduly severe and prayed to set aside the conviction and sentence recorded by the courts below.

8. Heard the learned counsel for the revision petitioner and the learned Assistant Public Prosecutor.

9. The learned counsel for the revision petitioner argued on the same lines as raised in the grounds of revision. The learned Assistant Public Prosecutor contended that there were concurrent findings of conviction recorded by the courts below against the accused for the offences under Sections 307 and 324 of IPC which need no interference by this Court and prayed to dismiss the Criminal Revision Case.

10. Perused the record. The record would disclose that PW1 is the brother of the injured and the complainant, PW2 is the injured, PW3 is the scribe of the complainant and except these witnesses all other witnesses cited as eye-witnesses examined as PWs 4 to 8 turned hostile and had not

supported the prosecution case. But, PWs 1 and 2 stated that there were previous disputes between the family of the complainant and the accused with regard to the construction of house and compound wall by encroaching into the house site of the complainant. PW1 also admitted in his cross-examination that no civil suit was filed by them, but, on a complaint given by the accused which was registered as STC, he and his father paid fine. The Investigating Officer examined as PW17 also stated about the complainant paying fine in an STC case filed by the accused. Thus, the evidence of PWs 1, 2 and 17 would disclose that there were disputes between the family of the complainant and the accused and criminal cases were filed by each other and the accused had a motive to attack the victim.

11. PW2 stated that on 05.10.2011, he went to bore-well with steel kettle (binde) to collect drinking water and while he was returning to his house and reached the house of Edla Ramaswamy, the accused came from his behind and stabbed with knife over his back and caused injuries to him. On his hue and cry, Edla Thirupathi, Edla Ramaswamy, Thundla Thirupathi, Thundla Rajender and his brother came and rescued him from the hands of the accused. Thereafter, the accused fled away from the scene of offence. He also stated about the disputes between his family and the accused and that the accused bore grudge and attacked him from his behind with a knife

with an intention to kill him. He stated that he went to Police Station along with the said knife on the left side of the body and the Police referred him to Government Hospital, Manthani for treatment.

12. PW3 also stated that on the date of incident, he heard cries, came out and found public brought the victim to his house with bleeding injuries. Immediately, he accompanied them to the Police Station, prepared the complaint on the dictation of the complainant. In his cross-examination, he admitted that he was related to both the victim and the accused. Thus, the evidence of PWs 1 to 3 is corroborating with each other with regard to the incident on 05.10.2011 at 5:00 PM. PW1 also stated that on seeing them, the accused left the scene of offence. PW3 stated that he accompanied PWs 1 and 2 to the Police Station and drafted the complaint.

13. Both the trial court as well as the lower appellate court on appreciating the evidence observed that no discrepancies were found in their evidence to disbelieve the prosecution case. Even though the other witnesses turned hostile, there is no reason to discredit the evidence of the injured, who stated about the accused attacking him. Just because PWs 1 to 3 were related to each other, their evidence cannot be discredited on the ground that they were interested witnesses. There is no reason for the injured to implicate any other person by leaving the actual assailant.

14. Further, the evidence of the Civil Assistant Surgeon, Government Hospital, Manthani examined as PW11 would show that the injured was brought to the hospital along with a knife pierced on the back side of his body behind the left shoulder. He stated that he removed the knife from the body of the injured and handed over to the Police Escort and addressed a letter to SHO under Ex.P9 regarding handing over the knife. PW11 stated that he observed six (06) lacerated stab injuries with knife on the back side of the body of the injured and gave the descriptive particulars of the injuries with its measurements.

15. PWs 14 and 15 are the doctors who treated the injured at Spring Hospital, Karimnagar. Both these witnesses stated that the injured was admitted in their hospital for a period of twelve (12) days and there were six (06) stab injuries and multiple abrasions over the body and the patient developed haemothorax due to consequence of injuries and he was given conservative treatment and he was discharged on 17.10.2011. The medical certificate issued by PW15 was marked as Ex.P12.

16. PWs.16 and 17 are the Investigating Officers who conducted the investigation of the case and filed charge-sheet.

17. As the knife was removed by the doctor at Government Hospital, Manthani and was sent to the SHO under Ex.P9, there could be no

panchanama conducted by the Police for the recovery of the knife. Non-seizure of the blood stained clothes by the investigating officer also cannot be a ground to suspect the prosecution case. The lower appellate court also rightly observed that any lacunae on the part of the investigating officer cannot affect the reliable testimony of the victim. Thus, the contentions raised by the revision petitioner in this regard do not have any merit.

18. This Court does not find any illegality or irregularity in confirming the guilt of the accused by the courts below for the offences under Sections 307 and 324 of IPC. The sentences inflicted against the accused are also appropriate to the offences charged against him and they were not unduly severe and in-appropriate to the charges leveled against the accused. Hence, this court does not find any necessity to interfere with the same.

20. In the result, the Criminal Revision Case is dismissed confirming the judgments of the courts below in convicting the petitioner-accused for the offences under Sections 307 and 324 of IPC and sentencing him to undergo rigorous imprisonment for a period of two (02) years and fine of Rs.2,000/-, in default of payment of fine to suffer imprisonment for a period of two (02) months for the offence punishable under Section 307 of IPC; and further sentencing him to undergo rigorous imprisonment for a period of six (06) months and a fine of Rs.500/-, in default of payment of fine to suffer

imprisonment for a period of fifteen (15) days for the offence punishable under Section 324 of IPC. The bail granted to the petitioner-appellant shall stand cancelled. The petitioner-appellant-accused is directed to surrender before the trial court to undergo the sentence and in case he fails to do so, the trial court shall take necessary steps to take him into custody.

Miscellaneous applications pending, if any, shall stand closed.

Dr. G. RADHA RANI, J

22nd November, 2022
nsk.