

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL REVISION CASE No.292 of 2006

JUDGMENT:

1. This revision petition is filed by the petitioner/A2 aggrieved by conviction in S.C.No.87 of 2001, dated 08.04.2003 passed by the I Additional Assistant Sessions Judge, Ranga Reddy District and confirmed by the III Additional District & Sessions Judge, vide Criminal Appeal No.54 of 2003, dated 03.02.2006.

2. The revision petitioner is accused No.2. He along with another accused/A1 were tried for the offence under Sections 341, 342, 366, 392, 307 IPC and Section 27 of the Indian Arms Act.

3. The case of the prosecution is that on 14.01.1999 while P.W.1 was returning from Bhongir to Hyderabad in his white Maruthi Car, around 5.00 p.m when he reached the outskirts of Gharkesar village, two persons on a motor cycle intercepted him and one of them forcibly occupied the driver seat by pushing P.W.1 aside and drove the car towards Hyderabad.

The other person was following the car on the motor cycle. After reaching Uppal, the 2nd person left the motor cycle near Krishna Nursing Home and got into the car. Both the accused took P.W.1 to Malakpet area and at Gun Point, demanded an amount of Rs.2.00 lakhs towards party fund claiming themselves to be red tigers. However, an amount of Rs.7,000/- cash was given and a cheque for Rs.10,000/-. P.W.1 was taken to a house in Chaderghat area and confined him for half an hour and from there he was taken to Medchal Area. The accused stopped the car for food near a hotel and P.W.1 stepped out of the car and ran towards the hotel shouting for help. The persons there surrounded the car and the accused fired in air disbursing the public and went away.

4. Both the accused were apprehended on 31.03.1999 and an amount of Rs.1900/- and a country made revolver with 4 live cartridges were seized from A1 and A2.

5. Learned Assistant Sessions Judge having examined P.Ws.1 to 11 and marking Exs.P1 to P20 and defence Exs.D1 to D4 found that this petitioner/A2 and also A1 guilty.

6. Learned Sessions Judge before whom the appeal was filed also concurred with the findings of the learned Assistant Sessions Judge and confirmed the conviction.

7. According to the learned counsel for the petitioner, petitioner/A2 was identified during Test Identification proceeding and it was admitted by PW.1 that the police had shown this petitioner/A2 to P.W.1 prior to TI parade, for which reason no credibility can be attached to TI parade and identity cannot be said to have been established. P.W.2 is another witness who was not part of identification parade, however, he admitted that the police had shown him the accused on the previous day on which day, the case was posted in the court and for the said reason on the date of deposition before the Court, the witness identified the accused.

8. The other ground urged by the petitioner is that there is any amount of inconsistency regarding the seizures that were affected from this petitioner. The seizures were already affected, as such the said seizure is inadmissible under Section 27 of the Evidence Act.

9. Learned Public Prosecutor appearing on behalf of the State submits that the concurrent findings of fact cannot be interfered by this Court in Revisional jurisdiction. Since both the Courts having discussed the evidence in detail, concluded that this petitioner and another had committed the acts of abduction and robbery, the Revision filed by the petitioner has to be dismissed.

10. The concurrent findings of fact in the cases can only be interfered by this Court in Revision only in the event of there being any patent illegality on the face of the findings. In the present case, when the victim identified both the accused and also seizure of country made revolver and live cartridges were effected from this petitioner, there are no grounds to interfere with the findings of the courts below. However, according to the learned counsel for the petitioner, the petitioner/A2 has served part of the sentence during the pendency of the appeal and also revision as he was arrested during Revision proceedings.

11. There are no other criminal cases which are pending against this petitioner/A2. Further, as far as this petitioner is concerned, no specific overt acts are attributed except stating that he was following the directions of A1. In the said circumstances, this Court deems it appropriate to reduce the sentence to the imprisonment of the period already undergone while confirming the conviction.

12. Accordingly, the Criminal Revision Case is allowed in part. As a sequel thereto, miscellaneous applications, if any, shall stand closed.

K.SURENDER, J

Date: 03.01.2023
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