

BAIL SLIP : The Petitioner/ Accused was directed to be released on bail by the order of the High Court dated 17.02.2011, in CrI.RC.M.P.No. 538 of 2011 in CrI.R.C No. 350 of 2011.

[3299]

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

**WEDNESDAY ,THE FOURTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL

CRIMINAL REVISION CASE NO: 350 OF 2011

Criminal Revision Case under Sections 397 & 401 of Cr.P.C. against the Judgment dated 04-02-2011 made in CrI. Appeal No. 28 of 2010 on the file of the Court of the III Additional District and Sessions Judge (FTC) at Nalgonda, Preferred against the Order passed in C.C.No. 299 of 2007 dated 08-02-2010 on the file of the Court of the Special Judicial First Class Magistrate, (for Prohibition and Excise Offences) Nalgonda.

Between:

Marri Shanker, S/o. Maraiah, Occ: Auto Driver, R/o. Kesharajupally Village, Thipparthi Mandal, Nalgonda District.

...APPELLANT/PETITIONER

AND

State of A.P., REP By Public Prosecutor, High Court of A.P. Hyderabad.

...RESPONDENT

Counsel for the Petitioner : Ms. K. RAJITHA

Counsel for the Respondent : Mr. Vizarith Ali Assistant P.P

The Court made the following:

THE HONOURABLE SRI JUSTICE E. V. VENUGOPAL**CRIMINAL REVISION CASE No.350 OF 2011****ORDER:**

The present Criminal Revision Case is filed seeking to set aside the judgment dated 04.02.2011 in CrI.A.No.28 of 2010 on the file of the Court of learned III Additional District & Sessions Judge (FTC), at Nalgonda (for short, "the appellate Court") in confirming the judgment dated 08.02.2010 in C.C.No.299 of 2007 on the file of the learned Special Judicial First Class Magistrate (Prohibition & Excise), Nalgonda (for short, "the trial Court").

2. Heard Ms. K. Rajitha, learned counsel for the petitioner and Mr. Vizarith Ali, learned Assistant Public Prosecutor appearing for respondent state. Perused the record.

3. The brief facts of the case are that the marriage between the petitioner with one Shailaja was solemnized on 13.03.2007. The parents of Shailaja gave an amount of Rs.1,10,000/- and other household articles to petitioner towards dowry. They were blessed with one male child during their wedlock. Later, the petitioner started harassing his wife mentally and physically for want of additional dowry. The petitioner was also an alcoholic. On 13.03.2007, the petitioner beat his wife with 'Jalligante' i.e, a

steel household article due to which, the victim suffered bleeding injuries to her right eye, right shoulder etc. Basing on the complaint lodged by PW1, *de facto* complainant, the Sub-Inspector of Police, Thipparthi Police Station filed charge sheet against the accused for the offences punishable under Sections.498-A and 326 of I.P.C. in Crime No.35 of 2007 and took up investigation.

4. Initially, the case was taken on file of the learned Judicial Magistrate of First Class, Nalgonda as C.C.No.830 of 2007 and was transferred to the trial Court and re-numbered as C.C.No.299 of 2007. The trial Court, vide judgment dated 08.02.2010, in C.C.No.299 of 2007, sentenced the petitioner to undergo rigorous imprisonment for two years and pay a fine of Rs.500/- for the offence under Section 498-A of I.P.C. The petitioner was further sentenced to undergo rigorous imprisonment for two years and pay a fine of Rs. 500/- for the offence under Section 326 of I.P.C. In default, to suffer simple imprisonment for one month each. Both the sentences are ordered to run concurrently. The remand period of the accused, if any, is ordered to be set off. Aggrieved by which, the petitioner preferred an appeal.

5. The appellate Court vide judgment dated 04.02.2011 in Crl.A.No.28 of 2010 dismissed the appeal by confirming the conviction and sentence passed by the trial Court. Assailing the same, the present Revision.

6. Learned counsel for the petitioner submitted that the trial Court as well as the lower appellate Court erroneously found the petitioner guilty of the alleged offences. He further submitted that the injuries of PW1 did not tally with medical certificate i.e., Ex P3 and the evidence of PWs.1 to 3 were not corroborating with each other. Therefore, seeks to set aside the impugned judgment.

7. Learned Assistant Public Prosecutor submitted that the appellate court after careful consideration of the evidence available on record rightly passed the impugned judgment and therefore, sought to dismiss the Revision.

8. On behalf of the respondent, the trial Court examined PWs.1 to 6 and marked Exs.P1 to P4. On behalf of the petitioner, none were examined and no documents were marked. MO1 was marked as material object. The trial Court found that the oral evidence of PW1 was in corroboration with Ex P1 complaint. PW2 is the circumstantial witness to the incident. In cross-examination PW3 stated that PW1 was undergoing

treatment for injuries sustained by her by the acts of petitioner. PW5 was the Doctor who treated PW1 and he issued Ex P3 wound certificate. He deposed that he examined PW1 and found (i) Contusion to right eye, (ii) incised wound measuring 3" x ½" x ½" on the back on right side and (iii) tenderness of the abdomen. He further deposed that injuries (i) and (ii) were simple in nature and they were caused by blunt object. Injury (iii) was grievous in nature and caused by sharp object. From the evidence of PWs.1 to 3 and 5 coupled with Ex P1 and M.O.1, it was proved that petitioner is the husband of PW1 and their marriage was performed about three years ago. Accused brought PW1 to his house after three months of her giving birth to son and subjected her to physical cruelty and voluntarily caused grievous hurt using MO1. The petitioner neither entered into the witness box nor led any reliable evidence to demonstrate that he did not subject the victim to physical cruelty. Therefore, the trial Court found the evidence of PWs.1 to 5 consistent, reliable and trustworthy and rightly passed the judgment dated 08.02.2010 in C.C.No.299 of 2007.

9. On an appeal being preferred, the appellate Court after careful consideration of the oral and documentary evidence and

upon appreciating the evidence of PWs.1 to 6 also observed that the prosecution proved the guilt of the petitioner accused for the alleged offences beyond reasonable doubt and thereby rightly dismissed the Appeal by confirming the judgment passed by the trial Court.

10. A perusal of the record shows that this Court vide order dated 17.02.2011 suspended the operation of sentence of imprisonment imposed against the petitioner and enlarged the petitioner on bail on executing a bond for an amount of Rs.10,000/- with two sureties each for a like sum to the satisfaction of the trial Court. The counter foil No.012213 dated 06.02.2010 annexed to the Revision shows that the petitioner had deposited an amount of Rs.1,000/- to the credit of the trial Court and thus paid the fine amount imposed vide judgment dated 08.02.2010 in C.C.No.299 of 2007.

11. In the present case on hand, both the Courts have concurrently held that the petitioner is guilty of the offences under Sections.498-A and 326 of I.P.C., which finding, in my considered view, does not call for interference of this Court in exercise of revisional jurisdiction under Section 397 Cr.P.C.

12. There are no grounds much less valid grounds to interfere with the well considered judgments of the Courts below and accordingly, this Revision is liable to be dismissed.

13. However, as the petitioner, suffered mental agony and hardship during the course of litigation before the trial Court as well as the appellate Court and as twelve long years have elapsed from the date of filing this Revision, this Court is inclined to take a lenient view and modify the sentence imposed by the appellate Court, while confirming the guilt of the accused for the alleged offences.

14. Therefore, the petitioner-accused is sentenced to undergo simple imprisonment for a period of six (6) months instead of two (2) years rigorous imprisonment for both the offences i.e., under Section 498-A and 326 of I.P.C. while giving set off to the period of imprisonment already undergone. The petitioner shall surrender before the trial Court to serve out the remaining period of sentence forthwith. The bail bonds of the petitioner shall stand cancelled.

15. Except the above modification, the Criminal Revision Case in all other aspects, stands dismissed.

Miscellaneous Petitions, pending if any, shall stand closed.

Sd/- M.RAMANA KRISHNA
DEPUTY REGISTRAR

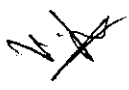
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SECTION OFFICER

To,

1. The III Additional District and Sessions Judge (FTC) at Nalgonda,
2. The Special Judicial First Class Magistrate, (for Prohibition and Excise Offences) Nalgonda.
3. One CC to Ms. K. RAJITHA, Advocate [OPUC]
4. Two CCs to the public prosecutor, High Court for the State of Telangana.
5. Two CD Copies

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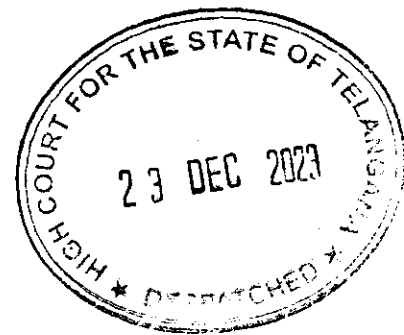
HIGH COURT

EVV,J

DATED:04/10/2023

ORDER

CRLRC.No.350 of 2011



DISMISSING THE Cri. R.C.

⑧ VLV
14/12/23