IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

TUESDAY, THE ELEVENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL REVISION CASE No.892 of 2009

Revision filed under Sections 397 & 401 of Cr.P.C, Aggrieved by the Judgment of the Judicial First Class Magistrate, Jangareddigudem, West Godavari District dated 08.4.2009, in CC.No.1097 of 2006.

Between:

Midde Durga Rao, S/o. Rattaiah, aged 48 years, Gowda, R/o. Yerrampeta Village, Koyyalagudem Mandal, West Godavari District.

...Petitioner/Defacto Complainant/PW-1

AND

1. Vadlamudi Rambabu, S/o. Naganna, aged 45 years, Gowda, R/o. Yerrampeta Village, Koyyalagudem Mandal, West Godavari District.
2. Vadlamudi Venkatarao, S/o. Naganna, aged 49 years, Gowda, R/o. Yerrampeta Village, Koyyalagudem Mandal, West Godavari District.
3. Vadlamudi Satyanarayana @ Sattibabu, S/o. Naganna, aged 38 years, Gowda, R/o. Yerrampeta Village, Koyyalagudem Mandal, West Godavari District.

4. Vadlamudi Narsimha Rao @ Narsibabu, S/o. Naganna, aged 41 years, Gowda, R/o. Yerrampeta Village, Koyyalagudem Mandal, West Godavari District.

5. Vadlamudi Sreenivasa Rao @ Sreenu, S/o. Naganna, aged 33 years, Gowda, R/o. Yerrampeta Village, Koyyalagudem Mandal, West Godavari District.

6. Vadlamudi Sreenivasa Rao @ China Sreenu, S/o. Venkatarao, aged 29 years, Gowda, R/o. Yerrampeta Village, Koyyalagudem Mandal, West Godavari District.

7. Vadlamudi Prasad, S/o. Venkata Rao, aged 25 years, Gowda, R/o. Yerrampeta Village, Koyyalagudem Mandal, West Godavari District.

8. Vadlamudi Anji Babu, S/o. Venkatarao, aged 23 years, Gowda, R/o. Yerrampeta Village, Koyyalagudem Mandal, West Godavari District.

9. Vadlamudi Anji Babu @ Anji, S/o. Rambabu, aged 22 years, Gowda, R/o. Yerrampeta Village, Koyyalagudem Mandal, West Godavari District.

...Respondents/Accused 1 to 9

10. State of A.P., rep.by Public Prosecutor, High Court of A.P., Amaravati.

...Respondent/Complainant

Counsel for the Petitioner : Sri I V N Raju

Counsel for Respondent Nos.1 to 9: Smt K Jyothi Prasad

Counsel for Respondent No.10 : Public Prosecutor

The Court made the following:

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

****

CRIMINAL REVISION CASE No.892 OF 2009

Between:-

Midde Durga Rao ...Petitioner

Versus

Vadlamudi Venkatarao And 9 Others ...Respondent

****

DATE OF ORDER PRONOUNCED : 11.02.2025

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI DR JUSTICE Y. LAKSHMANA RAO

1. Whether Reporters of Local Newspapers may be allowed to see the Judgment? Yes/No

2. Whether the copy of Judgment may be marked to Law Reporters/Journals? Yes/No

3. Whether His Lordship wish to see the fair copy of the Judgment? Yes/No

* HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

****

CRIMINAL REVISION CASE.No.892 OF 2009

11.02.2025

 # Between:

Midde Durga Rao

...Petitioner

Versus

Vadlamudi Venkatarao And 9 Others

...Respondent

****

! **Counsel for the Petitioners** : Sri K. Jyothi Prasad

^ **Counsel for the Respondent** : Mr. K. Sandeep, Assistant Public Prosecutor

< Gist:

> Head Note:

? Cases referred:

1) (1993) 4 SCC 10

2) AIR 1979 SC 1360

3) (2015) 13 SCC 444

4) (2015) 5 SCC 182

5) (2015) 5 SCC 197

6) (2012) 2 SCC 182

THE HON'BLE SRI DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL REVISION CASE.No.892 OF 2009

ORDER:

The Revision has been preferred under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') against the judgment in Calendar Case No.1097 of 2006 dated 08.04.2009, passed by the learned Judicial Magistrate of First Class, Jangareddygudem, holding the respondent No.1/accused No.1 found not guilty for the offence punishable under Section 326 of the Indian Penal Code, 1860 (for brevity 'the IPC.') and respondent No.2 to 9/accused Nos.1 to 9 found not guilty for the offence under Sections 323 and 326 read with 34 of 'the IPC.'

2. The following material grounds are raised in the revision:

i. The learned Magistrate erred in acquitting the accused for the offences punishable under Sections 326, 323, and 326 read with 34 of 'the IPC'.

ii. The learned Magistrate failed to see that the ingredients to constitute the said offences were proved by legal and reliable evidence to convict the accused for the offences charged.

iii. The learned Magistrate should have seen that the evidence of P.W-1 was fully corroborated with the evidence of P.Ws.6 to 8.

iv. The learned Magistrate should have seen that P.W-1 was an injured witness, his evidence was fully corroborated with the medical evidence.

v. The learned Magistrate should have seen that P.Ws.3 and 4 clearly stated in their chief examination that the incident happened 5 or 6 years ago on one day at 6.30 and 7.00 p.m., and the incident happened four houses away from their house and they had seen the commission of the said offence.

vi. The learned Magistrate failed to see that the evidence of hostile witnesses may not be rejected in toto.

vii. The learned Magistrate should have seen that Ex.P9 wound certificate is fully corroborated with MO.1 X-Ray belonging to P.W-1 and it corroborated with the evidence of P.W-8.

3. I have heard the arguments of the learned Counsel for the Revisionist, learned Counsel for Respondent Nos.1 to 9, and the learned Assistant Public Prosecutor and perused the record.

4. Sri I.V.N.Raju, learned counsel for revisionist reiterated the grounds of revision and urged that the judgment passed by the learned Judicial Magistrate of First Class, Jangareddygudem suffers from material irregularities and there are perverse findings recorded and therefore it is liable to be set aside and respondent Nos.1 to 9 are liable to be convicted and sentenced.

5. *Per contra,* Ms. V. Sowmya, learned counsel, representing Sri K.Jyothi Prasad, learned counsel for respondent Nos.1 to 9, argued that P.Ws-2 to 5, who were happened to be direct and independent witnesses, had not supported the case of the prosecution and there was a discrepancy with respect to the weapon allegedly used by the Respondent Nos.1 to 9 for

causing the alleged hurt to P.W-1. Except the untrustworthy evidence of P.W-1, which was not corroborated in material particulars, the prosecution could not prove the guilt of the accused beyond reasonable doubt. There were no material irregularities committed by the learned Courts below. Therefore, the learned Judicial Magistrate of First Class, Jangareddygudem had rightly appreciated the evidence in correct perspective and acquitted the respondent Nos.1 to 9. There was neither misreading of the evidence nor perverse findings. Hence, it is argued that the Revision Petition is liable to be dismissed.

6. Mr. K.Sandeep, learned Assistant Public Prosecutor argued in the similar lines with the learned counsel for Respondent Nos.1 to 9 and urged this Court to dismiss the revision case as there is no scope in appreciating the evidence by this revisional court and the revision is not maintainable.

7. Thoughtful consideration is bestowed on the arguments advanced by the learned counsel for the Petitioner, Respondent Nos.1 to 9 and the learned Assistant Public Prosecutor. I have perused the record.

8. Now the point for consideration is

> *Whether the judgment in C.C.No.1097 of 2006 dated 08.04.2009, passed by the learned Judicial Magistrate of First Class, Jangareddygudem, is correct, legal, and proper with respect to its finding, sentence, or judgment, and there are any material irregularities? And to what relief?*

9. The Hon'ble Apex Court in **K Chinnaswamy Reddy v State of AP**[1], at Paragraph No.7 held as under:

---

[1] AIR 1962 SC 1788

"7. It is true that it is open to a High Court in revision to set aside an order of acquittal even at the instance of private parties, though the State may not have thought fit to appeal; but this jurisdiction should in our opinion be exercised by the High Court only in exceptional cases, when there is some glaring defect in the procedure or there is a manifest error on a point of law and consequently there has been a flagrant miscarriage of justice. Sub-section (4) of S. 439 forbids a High Court from converting a finding of acquittal into one of conviction and that makes it all the more incumbent on the High Court to see that it does not, convert the finding of acquittal into one of conviction by the indirect method of ordering retrial when it cannot itself directly convert a finding of acquittal into a finding of conviction. This places limitations on the power of the High Court to set aside a finding of acquittal in revision and it is only in exceptional cases that this power should be exercised. It is not possible to lay down the criteria for determining such exceptional cases which would cover all contingencies. We may, however, indicate some cases of this kind which would in our opinion justify the High Court in interfering with a finding of acquittal in revision. These cases may be: where the trial court has no jurisdiction to try the case but has still acquitted the accused, or where the trial court has wrongly shut out evidence which the prosecution wished to produce. or where the appeal court has wrongly held evidence which was admitted by the trial court to be inadmissible, or where material evidence has been overlooked either by the trial court or by the appeal court, or where the acquittal is based on a compounding of the offence, which is invalid under the law. These and other cases of similar nature can properly be held to be cases of exceptional nature, where the High Court can justifiably interfere with an order of acquittal; an in such a case it is obvious that it cannot be said that the High Court was doing indirectly what it could not do directly in view of the provisions of S. 439 (4). We have, therefore, to see whether the order of the High Court setting aside the order of acquittal in this case can be upheld on these principles."

10. It is apposite to refer the judgment of the Hon'ble Apex Court in **Ayodhya Dube v. Ram Sumer Singh**[2], wherein it is held at para No.2 as under:

"We may add that the High Court also expressed the view that the instances mentioned by this Court in Chinnaswamy v. State of Andhra Pradesh as justifying interference with order of acquittal in the exercise of revisional powers were illustrative and not exhaustive. We agree with the view expressed by the High Court and we only wish to say that the Criminal Justice System

[2] AIR 1961 SC 1415

does not admit of 'pigeon-holding'. Life and the Law do not fall neatly into slots. When a Court starts laying down rules enumerated (1), (2), (3), (4), or (a), (b), (c), (d), it is arranging for itself traps and pitfalls. Categories, classifications and compartments, which statute does not mention, all tend to make law 'less flexible, less sensible and less just."

11. Keeping in view of the law laid down by the Hon'ble Apex Court in **Ayodhya Dube** and **K Chinnaswamy Reddy,** this revision case has to be appreciated. As seen from the evidence of P.W-1, who was the *de-facto* complainant by name M. Durgarao, that on 11.07.2003, while he was returning from his fields at 6.30 p.m., he reached the house of A1. A1 questioned him about giving information to the Excise Police officials about the involvement of other accused in Excise offences and on that A1 felt aggrieved and beat with a big stone on the left knee. Several persons gathered at that time. He went to the police station and gave a report.

12. To buttress the evidence of P.W-1, the prosecution had examined P.Ws-2 to 5, but they deposed abysmal ignorance about the alleged offence. In the evidence of P.W-1, he deposed that the alleged offence occurred at the house of A1, whereas, P.W-7 the Investigating Officer had deposed that the incident occurred near the house of A3 on Panchayat road. Similarly in Ex.P8 sketch prepared by P.W-7 does not disclose the location of the scene of offence. There were no marks shown in Ex.P8 about the scene of offence. The learned Trial Court also rightly observed that Ex.P8 prepared by P.W-7 was of no help to prove the case of the prosecution.

13. P.W-6 was examined to prove the drafting of scene of the offence observation report. P.W-6 stated that there were no marks or signs at scene of

offence about the occurrence of alleged offence. P.W-7 also in his cross-examination admitted that he had not found any traces of an altercation at the scene of offence. Had the incident occurred, as per the version of P.W-1, that nearly 9 persons attacked P.W-1, there would have been every possibility of scuffling and witnessing the same by the persons, who were in that vicinity. Ironically, P.W-1 deposed that A1 beat him with a big stone on his left knee. P.W-1 in his cross-examination categorically admitted that there was no abrasion or swelling over the leg. Had P.W-1 been beaten by the respondent Nos.1 to 9 by a big stone, P.W-1 would have received at least an abrasion or a swelling over his leg.

14. P.W-1 had stated that A1 threw a stone at him at a distance of 1 ½ yard. The stone which was allegedly used to cause injury to P.W-1 was not seized. It has to be pointed out that the Investigating Officer/P.W-8 in his charge sheet mentioned that respondent No.1 (A1) beat P.W-1 with a stick. However, the said stick was also not seized. When there is a discrepancy with regard to the alleged weapon used for the commission of offence from the version of P.W-1 and the Investigating Officer/P.W-8, the uncorroborated testimony of P.W-1 cannot be relied upon to sustain a conviction. The learned Trial Court had rightly appreciated the evidence on the correct perspective and acquitted the respondent Nos.1 to 9 by giving cogent and convincing reasons. There was neither misreading of evidence nor flagrant irregularity warranting this Court to invoke its extra-ordinary jurisdiction conferred under Sections 397 and 401 of 'the Cr.P.C.,' to reverse the findings and convict the respondents No.1 to 9.

15. Revisional power of this Court is very limited in respect of the revision against acquittal. The revisionary Court cannot sit as a Court of appeal and appreciate the evidence of the witnesses deposed before the Trial Court as laid down in **Ayodhya Dube** and **K Chinnaswamy Reddy** *supra*. Viewing from any angle, there are no merits and valid grounds. Accordingly, this Criminal Revision Case is dismissed. There shall be no order as to costs.

As a sequel, interlocutory applications, if any pending, shall stand closed.

Sd/- K TATA RAO
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

One fair copy to Hon'ble Dr Justice Y. LAKSHMANA RAO

(for his Lordships kind perusal)

To

1. The Judicial First Class Magistrate, Jangareddigudem, West Godavari District. **(with records if any)**
2. The Station House Officer, Koyyalagudam Police Station, West Godavari District.
3. Two CCs to the Public Prosecutor, High Court of Andhra Pradesh, Amaravathi[OUT]
4. One CC to Sri I.V.N. Raju, Advocate [OPUC]
5. One CC to Smt. K. Jyothi Prasad, Advocate [OPUC]
6. Nine (09) L.R. Copies.
7. The Under Secretary, Union of India, Ministry of Law, Justice and Company Affairs, New Delhi.
8. The Secretary, Andhra Pradesh High Court Advocates' Association Library, High Court Buildings, Amaravathi.
9. The Section Officer, Criminal Section, High Court of Andhra Pradesh at Amaravathi. **(to dispatch the trial court records)**
10. **Three CD Copies**

TK
sree

HIGH COURT

DATED:11/02/2025

ORDER

CRLRC.No.892 of 2009



DISMISSING THE CRIMINAL REVISION CASE