

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WEDNESDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SMT JUSTICE TIRUMALA DEVI EADA

Criminal Revision Case No.2867 of 2016

Criminal revision case filed under Sections 397 & 401 Cr.P.C. aggrieved by the order dated 05.10.2016 passed in CrI.A.No.37 of 2015 on the file of the Special Sessions Judge-cum-VII Additional District & Sessions Judge, Mahabubnagar preferred against the order dated 07.04.2015 passed in S.C.No.577 of 2012 on the file of the Assistant Sessions Judge at Narayanpet.

Between:

1. Chinna Bashappa, S/o. Ramachander, aged 27 years, Occ Jeep Driver, R/o. Kachawar Village, Makthal Mandal, Mahabubnagar District.
2. Wadde Laxmanna, S/o. Linganna, aged about 49 years, Occ Agriculture, R/o Kachwar Village, Makthal Mandal, Mahabubnagar District.

...Petitioners/ Accused Nos. 2 & 5.

AND

The State of Telangana, rep., by its Public Prosecutor, HighCourt at Hyderabad for the State of Telangana and for the State of A.P., at Hyderabad.

...Respondent.

I.A. NO: 1 OF 2016(CRLRCMP. NO: 4452 OF 2016)

Petition under Section 397 & 401 Cr.P.C. praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the judgment dt.05.10.2016 in CrI.A.No.37 of 2015 on the file of the court of the Special Sessions Judge-cum-VII Additional District and Sessions Judge at Mahabubnagar in so far as it relates to setting aside the acquittal of the petitioners recorded in judgment dt.07.04.2015 in SC.No.577 of 2012 on the file of the court of the Assistant Sessions Judge at Narayanpet, pending disposal of the CrI.RC.

Counsel for the Petitioners: Sri A.Prabhakar Rao.

Counsel for the Respondent: The Public Prosecutor.

The Court made the following: ORDER

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

THE HON'BLE SMT. JUSTICE TIRUMALA DEVI EADA

CRIMINAL REVISION CASE No.2867 OF 2016

DATE: 31-12-2025

Between:

Chinna Bashappa and another

... Petitioners

And

The State of Telangana,
Represented by its Public Prosecutor,
High Court at Hyderabad for the
State of Telangana and for the State of
Andhra Pradesh, Hyderabad

.. Respondent

ORDER:

This Criminal Revision Case is filed aggrieved by the judgment, dated 05.10.2016, passed in CrI.A.No.37 of 2015 by the learned Special Sessions Judge-cum-VII Additional District and Sessions Judge, Mahabubnagar.

2. Heard Sri A. Prabhakar Rao, learned counsel for the petitioners and Sri Jithender Rao Veeramalla, learned Additional Public Prosecutor for the respondent-State.

3. The case of the prosecution is that on 24.04.2012, the *de facto* complainant lodged a report stating that on 23.04.2012 at about 06:00 PM, while the husband of the *de facto* complainant, her father-in-law and brother-in-law were marking in their own land, the adjacent plot owners i.e., the accused, demanded them to leave two feet width of place and when they refused to do so, all the accused beat her husband, father-in-law and brother-in-law with sticks and caused bleeding injuries on the head and other parts of the body. Based on the said report, the Sub-Inspector of Police had registered a case in Crime No.35 of 2012, under Sections 147 and 324 read with 34 I.P.C. against the accused. During the course of investigation, the police have recorded the statement of the father-in-law of the *de facto* complainant by name Vollapuram Ramireddy, who received severe head injury, and altered the Section of Law from Sections 147 and 324 read with 34 I.P.C. to Sections 148 and 307 read with 149 I.P.C. After completion of investigation, the police laid charge sheet, upon which the learned Judicial Magistrate of First Class, Narayanpet, has taken cognizance of the case and numbered the same as P.R.C.No.44 of 2012 and thereafter, committed the case to the Court of Session. The learned Principal Sessions Judge, Mahabubnagar, has registered the same as S.C.No.577 of 2012

and made over the same to the learned Assistant Sessions Judge, Narayanpet, who after a full-fledged trial has found the accused not guilty of the offences under Sections 148 and 307 read with 149 I.P.C. and acquitted them of the said offences, however, the learned Assistant Sessions Judge found accused Nos.1, 3 and 4 guilty of the offence under Section 324 I.P.C. and accordingly, convicted them of the said offence and sentenced them to suffer simple imprisonment for a period of two (2) years each and to pay a fine of Rs.500/- each and in default of payment of fine to suffer simple imprisonment for a period of two (2) months. Thus, accused Nos.2 and 5 are acquitted. Aggrieved by the same, accused Nos.1, 3 and 4 preferred CrI.A.No.37 of 2015 before the learned Special Sessions Judge-cum-VII Additional District and Sessions Judge, Mahabubnagar. The appellate Court vide impugned judgment, dated 05.10.2016, remanded the matter to the trial Court. Aggrieved by the same, the present revision case is filed by accused Nos.2 and 5.

4. The operative portion of the impugned judgment, dated 05.10.2016, is extracted hereunder for the sake of reference:

"20. In the result, the Judgment of trial Court passed on 07-04-2015 in S.C.No.577 of 2012 convicting the accused/appellants herein for the offence under

Sec.324 IPC acquitting of the other accused nos.2 and 5 having found them not guilty of the offences under Secs. 148, 307 r/w 149 IPC is hereby set aside and the case is remanded to trial court for simultaneous disposal along with C.C.No.35 of 2013 pending on the file of Judicial Magistrate of First Class, Narayanpet on its committal to the court of Assistant Sessions Judge, Narayanpet uninfluenced with any of the observations and findings given in Judgment dated 07-04-2015 and Judgment of this court on re-appreciation of the evidence on record afresh after recording the evidence in C.C.No.35 of 2013.

The learned Judicial Magistrate of First Class, Narayanpet is directed to commit the case invoking sec.323 Cr.P.C. or to get it transferred to the court of Assistant Sessions Judge, Narayanpet with permission of the Hon'ble District and Sessions Judge, Mahabubnagar.

All the accused including accused nos.2 and 5 are directed to appear before the trial court i.e., Assistant Sessions Court, Narayanpet on 07-11-2016. If Accused nos.2 and 5 fail to appear before the trial court the Assistant Sessions Court, Narayanpet, is at liberty to secure their presence on issuing process. This appeal is disposed of accordingly."

5. Learned counsel for the petitioners submitted that the petitioners herein are accused Nos.2 and 5, who were acquitted by the trial Court of the offences under Sections 324, 148 and 307 read with 149 I.P.C, while accused Nos.1, 3 and 4 were convicted of the offence under Section 324 I.P.C. The accused Nos.1, 3 and

4 have preferred CrI.A.No.37 of 2015 before the appellate Court and the appellate Court has remanded the matter to the trial Court to dispose of the same along with C.C.No.35 of 2013 pending on the file of learned Judicial Magistrate of First Class Narayanpet, which is a cross case, by following the judgments of the Honourable Apex Court in **Nathi Lal v. State of U.P.**¹ and **Sudhir v. State of Madhya Pradesh**². He further submitted that by virtue of the impugned judgment, the case of the petitioners-accused Nos.2 and 5 also got remanded to the trial Court for conducting re-trial. The impugned judgment is against the purport of Section 300 Cr.P.C. and that the petitioners would be subjected to double jeopardy. Once the petitioners have faced full-fledged trial and were acquitted, subjecting them to another round of trial is not justified. He, therefore, prayed to set aside the impugned judgment, dated 05.10.2016, in respect of the petitioners herein.

6. Learned Additional Public Prosecutor has fairly conceded that the petitioners-accused Nos.2 and 5 were acquitted by the trial Court and therefore, they cannot be subjected to re-trial, by virtue of Section 300 Cr.P.C. He further submitted that the question that arises for consideration before this Court is whether the order of

¹ 1998 Supp. SCC 145

² AIR 2001 Supreme Court 826

remand passed by the appellate Court is sustainable as against accused Nos.2 and 5.

7. Perused the record.

8. The learned Special Sessions Judge has remanded the matter on the ground that there are two cases registered out of the same incident and that both the cases have to be disposed of simultaneously. In connection with the same incident, a complaint was lodged by the accused and the police have registered a case in Crime No.36 of 2012 of Makthal Police Station against PWs.2, 3 and 5 and the same was taken cognizance of and numbered as C.C.No.35 of 2013 on the file of learned Judicial Magistrate of First Class, Narayanpet. The present case i.e., S.C.No.577 of 2012 arose out of Crime No.35 of 2012 of Makthal Police Station. Thus, there was a case and a counter case. The trial Court has proceeded with the trial in one case i.e., S.C.No.577 of 2012, while the other case i.e., C.C.No.35 of 2013 is pending before the learned Judicial Magistrate of First Class, Narayanpet.

9. In **Sudhir's** case (supra 2), the Honourable Apex Court has discussed as to the implementation of the scheme in a situation where one of the two cases relating to the same incident is charge-

sheeted or complained of, involving offences exclusively triable by the Court of Sessions, while in the other case none of the offences are triable by the Sessions Court, the Magistrate before whom the former case reaches has to commit the case to the Sessions Court and once the case is committed to the Sessions Court, thereafter, it is governed by the provisions in Chapter XVIII of Cr.P.C. It was held that the Magistrate has the power to commit the case to the Court of Sessions even though none of the offences therein are exclusively triable by the Sessions Court. The purpose is that both the cases should be tried by the Sessions Court simultaneously. It was further held that during an inquiry into an offence or a trial before a Magistrate, if it appears to him at any stage of the proceedings before signing judgment that the case is one which ought to be tried by the Court of Sessions, he shall commit it to that Court under the provisions of the Cr.P.C. and thereupon the provisions of Chapter XVIII shall apply to the commitment so made.

10. In **Nathi Lal's** case (supra 1), the Honourable Apex Court held that the Sessions Court can conduct trial in both the cases one after the other and shall reserve the judgment of the first case till the trial in the second case is completed and pronounce

judgment in both the cases simultaneously by delivering two separate judgments and while deciding each of the case, he can rely only on the evidence recorded in that case. The evidence recorded in cross case cannot be looked into.

11. By relying on the said decisions, the appellate Court has held that the trial Court has to dispose of S.C.No.577 of 2012 along with C.C.No.35 of 2013 pending on the file of learned Judicial Magistrate of First Class, Narayanpet, and that the judgments in both the cases are to be delivered simultaneously, and thus, remanded the case to the trial Court *vide* impugned judgment, dated 05.10.2016. By virtue of the said judgment of the appellate Court the petitioners-accused Nos.2 and 5, who are acquitted by the trial Court, also have to face the trial for the second time, which is not permissible as per Section 300 Cr.P.C.

12. Section 300 Cr.P.C. is extracted hereunder for the sake of reference:

"300. Person once convicted or acquitted not to be tried for same offence.-(1) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for

any other offence for which a different charge from the one made against him might have been made under sub-section (1) of Section 221, or for which he might have been convicted under sub-section (2) thereof.

(2) A person acquitted or convicted of any offence may be afterwards tried, with the consent of the State Government, for any distinct offence for which a separate charge might have been made against him at the former trial under sub-section (1) of Section 220.

(3) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

(4) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(5) A person discharged under Section 258 shall not be tried again for the same offence except with the consent of the Court by which he was discharged or of any other Court to which the first-mentioned Court is subordinate.

(6) Nothing in this section shall affect the provisions of Section 26 of the General Clauses Act, 1897 (10 of 1897) or of Section 188 of this Code."

13. A bare perusal of the above Section reveals that no person shall be prosecuted or punished twice for the same offence. Thus, in the present case, since the petitioners-accused Nos.2 and 5 have already faced trial, remanding the case for another round of trial in respect of the petitioners herein is not just and proper. Therefore, the impugned judgment as against the petitioners herein is bad in the eye of law.

14. Accordingly, the Criminal Revision Case is allowed and the judgment, dated 05.10.2016, passed in Crl.A.No.37 of 2015 by the learned Special Sessions Judge-cum-VII Additional District and Sessions Judge, Mahabubnagar, is set aside as against the petitioners herein-accused Nos.2 and 5.

Miscellaneous Petitions pending, if any, shall stand closed.

Sd/- P. CH. NAGABHUSHAMBA
DEPUTY REGISTRAR

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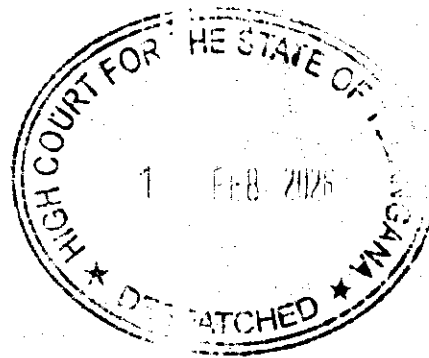
SECTION OFFICER

To,

1. The Special Sessions Judge-cum-VII Additional District & Sessions Judge, Mahabubnagar
 2. The Assistant Sessions Judge at Narayanpet.
 3. One CC to Sri A.Prabhakar Rao, Advocate [OPUC]
 4. One CC to the Public Prosecutor, High Court Buildings, Hyderabad. [OPUC]
 5. Two CD Copies.
- T.D.s.

HIGH COURT

DATED:31/12/2025



ORDER

CRLRC.No.2867 of 2016

Allowing the Criminal Revision case.

⑦-JKS
28/1/26 .