
(2010) 07 AP CK 0047

In the Andhra Pradesh High Court

Case No : Criminal Revision Case No. 598 of 2004

Ch. Pitchavadhanulu

APPELLANT

Vs

The State of A.P.

RESPONDENT

Date of Decision : 08-07-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 144, 21, 307, 323, 324
Protection of Civil Rights Act, 1955 — Section 7(1)

Citation : (2010) 2 ALD(Cri) 355 : (2011) CriLJ 469

Hon'ble Judges : Gopala Krishna Tamada, J

Bench : Single Bench

Advocate : O. Kailashnath Reddy, for the Appellant; Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

Gopala Krishna Tamada, J.—The petitioner herein-sole accused was tried by the learned Assistant Sessions Judge, Addanki, in S.C. No. 330 of 1997, for the offence punishable u/s 307 IPC. During the course of trial, on behalf of the prosecution, P.Ws. 1 to 9 were examined and Exs.P. 1 to P.8 and M.Os.1 to 3 were marked. On behalf of defence, no witnesses were examined, but Exs.D.1 to D.6 were marked. On a careful consideration of both oral and documentary evidence, the learned Assistant Sessions Judge came to the conclusion that the petitioner is guilty of the said offence, and accordingly, convicted and sentenced him to undergo rigorous imprisonment for a period of five years and also to pay a fine of Rs. 10,000/-, in default, to undergo simple imprisonment for a period of eight months and directed that out of the fine amount, an amount of Rs. 3,000/- shall be paid as compensation to the injured - P.W.1, by judgment dated 11.08.1998. Assailing the said judgment, the petitioner filed CrI.A. No. 69 of 1998 on the file of the V Addl. Sessions Judge, Ongole. The learned Sessions Judge after perusing the material placed on record held that the petitioner is not guilty of the offence punishable u/s 307 IPC, but found him guilty of the offence punishable u/s 324 IPC, and accordingly, convicted and sentenced him to pay a

fine of Rs. 1,000/-, by setting aside the conviction and sentence imposed by the trial court, by judgment dated 31.10.2003. The same is questioned in this revision.

2. For the purpose of convenience, the parties are referred to hereinafter as they were arrayed in S.C. No. 330 of 1997.

3. The case of the prosecution, in brief, is that the accused is a Typist, P.W.1 is a Lecturer, P.W.2 is an Attender, P.W.3 is a Record Assistant, P.W.4 is an old student, P.W.5 is the present Principal and P.W.6 is Ex-Principal of the Government Junior College, Addanki. Accused used to pick up quarrels with other staff and disobey the instructions of his superior officers. Previously, a case was registered against him in Cr. No. 21/1995 for the offences under Sections 324, 352, 323 r/w 144 IPC. In the year 1988, when his son was writing an examination, the accused tried to malpractice. Then, P.W.6, the then Principal, caught him and sent a special report, for which, the accused grew wild and abused P.W.6. Subsequently, a case was registered in Cr. No. 145 of 1988 for the offences under Sections 477, 506 IPC r/w Section 7(1)(d) of the P.C.R. Act against the accused and the same was ended with conviction. Thereafter, he was removed from service on 03.01.1991. But however, in pursuance of the directions of the Apex Court he was reinstated into service and joined duty on 19.05.1997. The accused developed ill-feeling towards his staff and the then Principal.

i) On 15.07.1997 at about 12.30 hours the accused picked up a quarrel with P.W.2 and suddenly picked up a knife and tried to stab him with an intention to do away his life. P.W.1, the lecturer, who was there, tried to chastise the accused. Then the accused grew wild and with an intention to do away the life of P.W.1 the accused stabbed P.W.1 with M.O.3 at left axilla, back of left arm and on the left thigh, causing severe bleeding injuries. P.Ws.2 and 4 witnessed the same and rescued P.W.1 and shifted him to Addanki Police Station. P.W.9 recorded Ex.P. 1 statement and registered a case in Cr. No. 69 of 1997 against the accused and after completion of investigation, laid charge sheet for the offence u/s 307 IPC.

4. The main contention of the Learned Counsel for the petitioner-accused is that even if the case of the prosecution is accepted as it is, the petitioner-accused never had any intention to attack P.W.1 and his intention was to attack only P.W.2 because of certain rivalry. In the absence of any intention, the courts below cannot find the petitioner-accused guilty. The Learned Counsel further submitted that because of rivalry in the affairs of the College, wherein the petitioner was working as a Typist, a false case has been foisted against the petitioner and he was made to run from pillar to post and pursuant to the orders passed by the Apex Court, he was reinstated into service.

5. The learned Addl. Public Prosecutor opposed the contentions put forth by the Learned Counsel for the petitioner and contended that the petitioner-accused attempted to kill P.W.2 and when P.W.1 intervened, he stabbed P.W.1 with an

intention to kill him. The prosecution established the guilt of the petitioner-accused beyond all reasonable doubt.

6. In the light of the submissions made by the Learned Counsel for the petitioner-accused, this Court looked at the evidence of P.Ws. 1 and 2 and the evidence of the Doctor i.e. P.W.8. As per the evidence of P.W.1, he has been working as a Lecturer in the Government Junior College, Addanki, for seven years. P.W.2 is also working as Lab attender and P.W.3 was working as Record Assistant in the said college. When P.W1 was explaining about the vocational courses to students, there was an altercation between P.W.2 and the petitioner-accused, and in that context, when the petitioner was coming speedily with an intention to attack P.W.2, P.W.1 intervened to stop the petitioner, during the course of which, P.W.1 received bleeding injuries. Thereafter, P.W.1 was shifted to the Government Hospital, where he was treated by P.W.8. The said evidence is totally corroborated by P.W.2. P.W.8 i.e., the doctor, who treated P.W.1, stated that P.W.1 received three injuries which are as follows:

- 1) A lacerated stab injury below the left axiller measuring 2 inches in radius 2 1/2. inches depth. The injury is round in shape.
- 2) A cut injury over the back of the left arm measuring 2 inches x 1/2 inch red in colour.
- 3) A crush injury over the left thigh measuring 2" x 2".

7. According to P.W.8, the said injuries are simple in nature. No doubt, it is true, as rightly contended by the Learned Counsel for the petitioner-accused that the prosecution has come forward that P.W.1 received only two injuries. Whereas the medical evidence is to the effect that P.W.1 received three injuries. But from that, it cannot be concluded that there is a deliberate attempt to foist a false case against the petitioner-accused. From an overall reading of the evidence of the prosecution, mainly P.Ws.1, 2 and 8, this Court is thoroughly satisfied that there was an attack, during the course of which, P.W.1 received simple injuries.

8. When it came on record that the main intention of the petitioner-accused was to attack P.W.2, but not P.W.1, and the evidence establishes that P.W.1 received minor injuries, this Court has to see what is the offence committed by the petitioner. In this context, this Court looked into Sections 323 and 324 of IPC. The essential ingredients to make out an offence u/s 324 IPC should be that there must be voluntarily causing hurt and also the required intention. In other words, to constitute an offence of voluntarily causing hurt, there must be complete correspondence between the result and the intention or the knowledge of the person who causes the said hurt. When we look into the case in those angles, it is clear that it was not the intention of the petitioner-accused to attack P.W.1 and his intention was only to attack P.W.2 because of some altercation or disputes between them. Therefore, this Court is of the view that the petitioner-accused cannot be said to have committed the offence punishable u/s 324 IPC.

9. But from the evidence, it is clear that P.W.1 received injuries which are simple in nature. In those circumstances, this Court has to see what is the offence committed by the petitioner. The answer to the said question is Section 337 IPC. It reads as under:

337 IPC - Causing hurt by act endangering life or personal safety of others - Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

10. Here in this case, there is no complete correspondence between the result and the intention or the knowledge of the petitioner-accused, but there is hurt. Therefore, it shall be construed that it is an accident falling u/s 337 IPC. In fact, the lower appellate court has discussed these aspects in proper perspective and came to the conclusion that the alleged offence punishable u/s 307 IPC is not made out. But, in my considered view, the lower appellate court ought not have convicted the petitioner-accused for the offence punishable u/s 324 IPC, for the reason that the said act does not satisfy the required ingredients i.e. voluntarily causing hurt or intention. In fact, the lower appellate court in its judgment has also discussed certain aspects with regard to the disputes between the petitioner-accused and the Management of the College wherein the petitioner-accused is working, and from that, it appears that the petitioner is not having cordial relationship with the Management of the College.

11. In the light of the above discussion, this Court is of the view that the lower appellate court also erred in holding that the petitioner-accused is guilty of the offence punishable u/s 324 IPC and hence the conviction and sentence imposed by the lower appellate court is liable to be set aside and in the alternative the petitioner-accused shall be convicted for the offence punishable u/s 337 IPC.

12. At this juncture, the Learned Counsel for the petitioner-accused submitted that because of disputes between him and P.W.2, the petitioner-accused was removed from service, and if the petitioner is again convicted for the offence u/s 337 IPC, there is every likelihood of taking vengeance against the petitioner by the Management of the College.

13. I am unable to accept the aforesaid submission made by the Learned Counsel for the petitioner. When once the accused has committed the offence, he shall be punished for that offence. May be it is true that the petitioner-accused is a public servant within the meaning of Section 21 of IPC and there is every likelihood of removing him from service. This Court is of the view that it is only in cases where moral turpitude is involved then only the public servant is to be removed from service for the reason that he has committed an offence punishable under the provisions of IPC. Here is a case where this Court is finding the petitioner-accused guilty of the offence punishable u/s 337 IPC and in my considered view the said conviction would not involve moral turpitude so as to

remove the petitioner-accused from service.

14. Accordingly, the Criminal Revision Case is partly allowed. The conviction and sentence imposed on the petitioner-accused by the lower appellate court for the offence punishable u/s 324 IPC is hereby set aside, and instead, the petitioner-accused is convicted for the offence u/s 337 IPC for causing hurt on P.W.1 and sentenced to pay a fine of Rs. 1,000/- (Rupees One thousand only).