
(2013) 09 AP CK 0008

In the Andhra Pradesh High Court

Case No : Criminal Petition No. 3865 of 2011

N.V.S.K. Prasad and Another

APPELLANT

Vs

State of A.P. and Another

RESPONDENT

Date of Decision : 27-09-2013

Acts Referred:

Citation : (2014) 1 ALD(Cri) 352

Final Decision : Allowed

Judgement

Raja. Elango, J.—This Criminal Petition is filed by petitioners-A1 & A4 seeking to quash the proceedings against them in C.C. No. 647 of 2009 on the file of the IV Additional Chief Metropolitan Magistrate, Hyderabad. The 2nd respondent-de facto complainant gave a written complaint stating that he along with watchman Nagaraju, Ramanamma are residing in Flat No. 406, Usha Kiran Arcade, OU Road, Hyderabad and, on 5.4.2005 at about 1.30 p.m., the petitioners and the brother of the 1st petitioner and others forcibly trespassed into their flat to evict them from the flat and the 1st petitioner stabbed Ramanamma on her right hand and caused injuries while the 2nd petitioner beat them with chappal, and their associates beat them with hands, legs and chairs. Basing on the complaint, a case in crime No. 93 of 2005 of Nallakunta P.S., was registered for the offence under Sections 452, 324 and 506 r/w 34 IPC and investigated into. After completion of the charge sheet, the same was taken on file and numbered as C.C. No. 131 of 2006. Subsequently, the case against the petitioners-A1 & A4 and A3 was separated and numbered as C.C. No. 647 of 2009.

2. It is the case of the petitioners that they have been falsely implicated and on the same set of allegations, A2 was tried in C.C. No. 131 of 2006 and acquitted by the trial Court.

3. Perused the material available on record and also the judgment in C.C. No. 131 of 2006.

4. The trial Court acquitted A2 on the following grounds:

P.W.1-B. Ramachandra Reddy deposed that he does not know L.Ws.1 to 4 and A1, A2 and A4; that in the year 2005 one day afternoon time, police came to the Ushakiran Arcade and noted down his name and address and except that, he does not know anything about the case. P.W.1 is declared as hostile and his 161 Cr.P.C. statement is marked as Ex. P2. P.W.2 deposed about the registration of FIR having received the complaint from L.W.1-Shaik Saleem. When L.W.1 is not at all examined before the Court, no value can be attached to Ex. P2-complaint said to have been given by L.W.1. P.W.3 deposed that he does not know anything about the case. P.W.4 stated that on 5.4.2005 at 2.00 p.m., he examined L.W.1-Shaik Saleem and also L.W.2-Smt. Ramanamma and observed injuries, which are simple in nature. When there is no evidence at all for the prosecution to prove that L.W.1-Shaik Saleem and L.W.2 Smt. G. Ramanamma sustained injuries in the hands of accused and the accused trespassed into their flat and threatened them with dire consequences etc., no conviction can be recorded on A2.

5. In the complaint, it is alleged that the petitioners and A3 together have committed the above offence. In view of the fact that the trial Court acquitted one of the accused, whose case stood on similar footing as that of the petitioners, this Court is of the view that this is a fit case to quash the proceedings against the petitioners-A1 and A4. Accordingly, the Criminal Petition is allowed quashing the proceedings against the petitioners in C.C. No. 647 of 2009 on the file of the IV Additional Chief Metropolitan Magistrate, Hyderabad. Consequently, the Miscellaneous petitions pending, if any, stand closed.