
(2023) 01 TEL CK 0009

In the Telangana High Court

Case No : Criminal Revision Case No. 2110 Of 2006

Nyamathabad Chandrasekhar, Shekar

APPELLANT

Vs

State Of Ap

RESPONDENT

Date of Decision : 05-01-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 428
Indian Penal Code, 1860 — Section 307, 325

Citation : (2023) 01 TEL CK 0009

Hon'ble Judges : K.Surender, J

Bench : Single Bench

Advocate : D Purnachandra Reddy

Final Decision : Allowed

Judgement

1. The petitioner is questioning the finding of guilt by the Assistant Sessions Judge, Bodhan, vide judgment in S.C.No.591 of 2001 dated 19.08.2003, which was confirmed by the V Additional Sessions Judge (Fast Track Court), Nizamabad, vide judgment in Criminal Appeal No.64 of 2003, dated 14.12.2006 for the offence under Section 307 of IPC.

2. The case of P.W.2/injured is that he was Butcher by profession. The Thimmapur Village Committee called him to sell Mutton and Chicken in their village and provided premises. Having agreed for the same, Rs.1,800/- was paid to the Committee. Three days thereafter, the petitioner herein approached the committee people and offered Rs.5,000/-towards lease amount, but the Committee people refused. The petitioner was angry that his proposal was not accepted by the committee. The petitioner came back to the village and while P.W.2 was talking to the father of the petitioner, the petitioner took out knife from side pocket and stabbed five times in the stomach and chest, as a result of which PW2 sustained bleeding injuries and fell on the ground and became unconscious. He was taken to the hospital for treatment. Having received the complaint about the attack, police investigated and filed charge sheet for the

offence under Section 307 of IPC.

3. Learned counsel for the petitioner submitted that the eye witness P.W.4 turned hostile to the prosecution case and on the basis of the sole testimony of P.W.2, conviction was recorded by the trial Court, which is erroneous. He relied on the judgment of this court in the case of Jonrolla Raju and another v. State of A.P 2004(3) ALD (NOC) 185. In the said judgment, the recovered weapon was not sent for chemical analysis to find out whether it contained human blood nor was shown to the Doctor for his opinion that such material object can cause injury which is found on the victim. In the said circumstances, the confession and the circumstantial evidence in the case could not be proved and conviction was set aside.

4. Learned Additional Public Prosecutor submits that the concurrent findings of conviction cannot be interfered with by this Court in Revision.

5. The evidence of P.W.2, who is an eye witness and injured cannot be disbelieved. There is no reason why P.W.2 would make a false allegation against this petitioner. The statement of P.W.2 corroborates with the complaint filed. Only for the reason of P.W.6 turning hostile who is a witness to MO1 recovery proceedings, will not in any manner dilute the case of the prosecution.

6. There are no grounds to interfere with the finding of guilt against the petitioner. However, according to the evidence of P.Ws.1 and 3, there was lot of noise and fighting that happened in between the petitioner and P.W.2 in the presence of several others. The attack on P.W.2 appears to be the result of the fight which ensued in between them. For the said reason of the Petitioner reacting to the altercation and causing injuries, this Court deems it appropriate to convict the petitioner for the offence under Section 325 of IPC for causing grievous hurt as intention to cause death is not forthcoming in the facts of the present case.

7. In the result, the conviction of the petitioner under Section 307 of IPC is set aside and he is convicted for the offence under Section 325 of IPC for causing grievous injuries. The petitioner is sentenced to undergo rigorous imprisonment for a period of six months. The remand period if any, shall be set off under Section 428 of Cr.P.C.

8. Accordingly, the Criminal Revision Case is allowed in part. As a sequel thereto, miscellaneous applications, if any, shall stand closed.