

HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

Criminal Revision Case No.181 OF 2007

Between:

P. Venkata Rao

... Petitioner

And

The State of Andhra Pradesh,
rep. by its Public Prosecutor,
High Court of Judicature of Andhra Pradesh
at Hyderabad & Others

... Respondents

DATE OF JUDGMENT PRONOUNCED: 10.01.2023
Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

- 1 Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
- 2 Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No
- 3 Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No

K.SURENDER, J

* THE HON'BLE SRI JUSTICE K. SURENDER

+ CRL.RC. No. 181 of 2007

% Dated 10.01.2023

P. Venkata Rao

... Petitioner

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rep. by its Public Prosecutor,
High Court of Judicature of Andhra Pradesh
At Hyderabad & Others

... Respondents

! **Counsel for the Petitioner:** Sri. D. Kodanda Rami Reddy

^ **Counsel for the Respondents:** Sri S.Sudershan,

Addl. Public Prosecutor

Sri V.M.Krishna Reddy for R2 to R10

>HEAD NOTE:

? Cases referred

HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL REVISION CASE No.181 of 2007****JUDGMENT:**

1. The petitioner who was examined as P.W.9 before the trial Court has preferred the present Criminal Revision questioning the correctness of the order of acquittal of the respondents 2 to 10, who are arrayed as A1 to A9 and tried for the offences under Sections 448 r/w 149 IPC and Section 302 r/w 109 and Section 324 r/w 149 of IPC vide judgment in S.c.No.485 of 2006 dated 03.11.2006.

2. The case of the prosecution is that the respondents/accused and the deceased Polasani Veera Rao are residents of Rangapuram village of Mogulapally Mandal. On 22.01.2004, Padugula Narsaiah and Padugula Salender, who are A7 and A8 quarreled with the deceased on a petty issue, picked up sticks and beat him, which was registered as Crime No.4 of 2004 for the offence under Sections 324 r/w 34 IPC of P.S.Mogulapally and pending trial. The deceased person Veera Rao went to Warangal to attend trial in a case and while

returning back, he went to the house of P.W.8. At that juncture, A1 called the witness P.W.2 and while they were conversing, the deceased intervened and a quarrel ensued between the deceased and A1. It is alleged that A1 felt insulted by the acts of the deceased Veera Rao and went to his village, gathered his relatives, who are A2 to A9 and armed with deadly weapons and sticks, trespassed into the house of the deceased and attacked him. The attack resulted in the death of the deceased. A complaint was filed with the police and they investigated the case and filed charge sheet. During the course of investigation, it was found that the deceased died due to incised and chop wounds.

3. Learned Sessions Judge having examined the witnesses P.Ws.1 to 19 and marking Exs.P1 to P22 found that there is evidence of P.W.1 who is the mother of the deceased and PW5 who is the father of PW1, regarding the entire incident. Further, statements of P.W.1 and PW5 in court were inconsistent with their statements before the police regarding the altercation between the deceased and A1 and also the

subsequent attack by all the accused. The other eye witnesses did not support the prosecution case. On account of the animosity between the deceased and the accused, the evidence of P.W.1, who was an interested witness, was not accepted by the Sessions Court. Narration of the incident from the beginning, when there was an altercation between the deceased and A1 at the house of P.W.8 and also the subsequent attack, PW1 had stated different versions during chief and cross-examinations. The learned Sessions Judge found that on the basis of the tainted testimony of P.W.1 and PW5 who did not appear to be truthful and did not inspire the confidence of the court, conviction cannot be based on such inconsistent testimony.

4. Sri S.Sudershan, learned Additional Public Prosecutor submits that since the acquittal is being questioned in the present revision, the case has to be listed before the Division Bench.

5. In accordance with the Appellate Side Rules of this court, under Chapter-I (Constitution of Benches) (1)(f), a Single

Judge shall hear every application filed for the exercise by the High Court of its powers to revise the proceedings of any Criminal Court. For the said reason, there is no necessity to send the case to Division Bench, as such, the case is being heard and disposed by this Court.

6. Having perused the record, there are several discrepancies in the evidence of P.W.1 and the other eye witness PW.5. P.W.1 is none other than the mother of the deceased and an injured witness. P.W.5 is the other eye witness, father of P.W.1.

7. There cannot be any doubt that evidence of relatives cannot be accepted. However, in the present case, P.W.1 has falsely implicated A9 in the case though he was not present. The reasons regarding narration of incidents at the earliest point of time about the altercation between the deceased and A1 and the subsequent alleged attack are improvements made during the course of trial.

8. This court under powers of revision under Section 401 of Cr.P.C, cannot convert an order of acquittal into conviction.

However, this Court has powers to remand the case back for retrial or a *denovo* trial only if the circumstances warrant such remand. In the present case, there are no infirmities in the findings of the learned Sessions Judge. The findings are probable and reasonable. Only for the reason of a possibility of another view which can be taken, this Court cannot interfere with the order of well reasoned judgment of acquittal and remand the matter back for retrial or *denovo* trial.

9. In an order of acquittal, there is a presumption of innocence and unless there are compelling reasons in the form of any illegality committed by the trial judge, interference by this Court is not called for. For the aforesaid reasons, the revision fails and the same is liable to be dismissed.

10. Accordingly, the Criminal Revision Case is dismissed. As a sequel thereto, miscellaneous applications, if any, shall stand dismissed.

K.SURENDER, J

Date: 10.01.2023

Note: LR copy to be marked.

B/o.kvs

HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL REVISION CASE No.181 OF 2007

Dt.10.01.2023

kvs

