

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRIMINAL APPEAL No.424 of 2015

JUDGMENT:

This appeal is filed by challenging the judgment dated 02.05.2009 passed in S.C. No.93 of 2007 of the Special Judge for SC/ST (POA) Cases, at Warangal acquitting the respondent for the offences under Section 427 IPC and Section 3 (i) (x) of SC/ST (POA) Act, 1989.

2. The case of the prosecution is that PW.1 and others were doing financial business in the name of firm by name Thirumala Finance. PWs.2 to 4 are his friends. The respondent/ accused was doing granite business and he was native of Madikonda Village at Subedari, Hanamkonda. It is the case of the prosecution that the accused approached PW.1 and asked to give him loan for the development of his granite business and thereupon the accused was given Rs.5,00,000/- as loan by PW.1 with interest at 18% per annum by taking promissory note and cheque. It is alleged that on 04.03.2006 PW.1 went to the accused and asked him to repay the loan, then the accused replied, in a threatening manner, to PW.1 that at present he was not having money and he would give after some time. PW.1 came to P.S Subedari and informed the same to Sub-Inspector of Police, Subedari. On coming to know of this, it is alleged that the respondent/ accused called upon PW.1 along with promissory note and cheque by saying that he would give the money. On 07.03.2006, PW.1 went to the accused along with PWs.2 to 4 and also loan file i.e., cheque, promissory note etc. It is alleged that on seeing the PW.1 the accused became angry and pulled the promissory note and cheque from the hands of PW.1 by abusing him in the name of his caste.

3. Complaint was lodged by PW.1 upon which LW.7 registered a case in Crime No.102 of 2006 under Section 3 (1) (x) of SC/ST (POA) Act and Section 427 IPC and issued FIR on 07.03.2006. After investigation, the Magistrate took

the case on file under Section 3 (1) (x) of SC/ST (POA) Act and Section 427 IPC and committed to the First Additional District and Sessions Judge, Warangal. Charges under above provisions of law were framed and the same has been read over and explained to him in Telugu but he denied it. Prosecution examined PWs.1 to 5 and marked Exs.P1 to P7.

4. The respondent/ accused was examined under Section 313 Cr.P.C with regard to the incriminating material for the offence under Section 3 (1) (x) of SC/ST (POA) Act and Section 427 IPC but he denied it.

5. By judgment dated 02.05.2009, the Court below acquitted the accused. Challenging the same, this appeal is filed.

6. Admittedly, the incident happened in the house of the accused. This is submitted by PWs.1 to 4. The house of the accused is not a public place.

7. The prosecution had also not established when the alleged loan of Rs.5,00,000/- was given to accused by PW.1, since no material in that regard was placed before the Court below. It is not the case of the prosecution that PW.1 has filed any civil suit or issued any notice to the accused to recover the amount allegedly advanced by him to the accused. According to the prosecution, the earlier incident occurred on 04.03.2006 and complaint was also given on that day by PW.1, but this complaint was not filed by prosecution and no reason was assigned as to why this was suppressed. PW.1 alleged that the accused had torn away the loan transaction papers, therefore they were not filed, but PW.5 admitted in his cross examination that he has not seized any documents either from the possession of the accused or from the possession of PW.1. Admittedly, no panchanama was conducted about the papers torn by the accused.

8. PW.2, who said to be an eye witness to the incident has stated that the words used by the accused against PW.1 were different from what PW.1

stated in his evidence. PW.3 also stated that he had not witnessed the incident occurred in the house of the accused.

9. Having regard to the above circumstances, this Court is of the opinion that the Court below had rightly acquitted the accused and no ground is made out by the prosecution to interfere with this said judgment. Therefore, I don not find any merit in appeal in this regard.

10. Accordingly, this appeal is dismissed.

11. Consequently, miscellaneous petitions, pending if any, in this Criminal Appeal shall stand closed.

M.S.RAMACHANDRA RAO, J

Date:01.04.2015

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THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

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CRIMINAL APPEAL (SR) No.6166 of 2010

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Date:01.04.2015

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