

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

CRIMINAL APPEAL No.596 OF 2015

ORDER:

Heard the learned Public Prosecutor for the State and the learned counsel for the respondents-accused and with their consent, the matter is taken up for final consideration today.

The case as set-up by the State is that the accused persons, A-1 to A-7 have committed offence punishable under Section 148, 324, 506 read with 149 I.P.C. It appears, there was a land dispute between A-1 and P.W.1, pending before the Mandal Revenue Officer, Elkathurthy. Due to this land dispute, it appears, it is alleged that A-1 bore grudge and hence hatched a plan along with A-2 to A-7 to teach a lesson to P.W.1 and accordingly on 26.02.1999 at about 02:30 hours when P.W.1 and his relative were proceeding to their field, on a motorcycle bike, A-3 & A-4 chased them for a while and stopped them enroute and in the meantime, A-1 arrived at the site in a jeep and all of them have joined together and beat up P.W.1. It is the case of P.W.1 that he went and reported the matter to the police who investigated and laid the charge against the accused. On behalf of the prosecution, 11 witnesses have been examined and Exs.P-1 to P-8 have also been got marked. The portions of contradictions in Ex.P-1, the complaint have been got marked on behalf of the witnesses as Exs.D-1, D-2 & D-3.

The learned Additional Judicial Magistrate of First Class, Huzurabad, has considered the entire evidence carefully. Importantly, PW.7, the Medical Officer, has deposed that he has examined on 26.02.1999 at about 05.00 PM, PW.1 and found injuries 1 to 3, which are contusions on left side of fore head, over right hip and middle back

and opined that they are simple in nature and could have been caused with blunt object. The age of the injuries was found to be 10/20 hours prior to his examination. Ex.P6 is the wound certificate issued in so far as the injuries found on PW.1. During the course of cross-examination, PW.7 has opined that if a person driving a motorcycle at high speed slips and falls therefrom, the injuries noticed in Ex.P6 are possible to be caused. In view of the other contradictions brought out that it is PW.10, who has deposed that he has seized the case property, i.e the sticks used for the commission of the offence and he has handed over the same to his successor PW.11. But, PW.11 has stated that PW.10 has not handed over the alleged sticks used in the commission of the offence and that PW.11 has not deposited the case property before the Court and hence, the evidence of panch witnesses of recovery Panchanama cannot be taken into consideration.

The reasoning assigned by the learned Magistrate is proper and fair. In this view of the matter, the accused are entitled for acquittal as a doubt persisted in the mind of the Court as to whether they have committed the offence using sticks which have not been deposited before the Court and I do not see any justifiable reason to reverse the order of acquittal granted by the learned Additional Judicial Magistrate of First Class, Huzurabad. Hence, I do not see any merit in this appeal and accordingly, it is dismissed.

Consequently, miscellaneous petitions, if any pending shall also stand dismissed.

JUSTICE NOOTY RAMAMOHANA RAO

03.06.2015
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