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Andhra Pradesh High Court

Case No: Criminal Appeal No. 1568 of 1999

Beesetti Moolademudu	APPELLANT
Vs	
State of Andhra Pradesh	RESPONDENT

Date of Decision: Nov. 5, 2004

Acts Referred:

- Penal Code, 1860 (IPC) - Section 307, 324

Citation: (2005) 1 ALT(Cri) 469 : (2005) 1 APLJ 242

Hon'ble Judges: P.S. Narayana, J

Bench: Single Bench

Advocate: C. Praveen Kumar, for the Appellant; The Public Prosecutor, for the Respondent

Final Decision: Dismissed

Judgement

P.S. Narayana, J.
Heard Sri Praveen Kumar, representing the appellant-accused and the learned Additional Public Prosecutor Sri Mohd. Osman Shaheed.

2. Sri Praveen Kumar the learned counsel would submit that there is delay in lodging the First Information Report. The learned counsel also would submit that when the relationship between the accused and the PW.1 had been a strained relationship, there is every reason for PW.1 to foist a case. The learned counsel also would submit that the learned Judge should have placed reliance on the evidence of DW.1 and discarding the evidence of DW.1 on the ground that the same can not be believed, definitely cannot be sustained. The counsel also would submit that the evidence of PW.2 cannot be believed since the same is artificial and the counsel also would contend that this witness is having illicit intimacy with PW.1. The learned counsel ultimately would conclude that at any rate in view of the relationship between the parties and the nature of evidence available on record, the appellant-accused may be let off, inasmuch as he had suffered imprisonment for a period of about more than one month.

3. Per contra, the learned Additional Public Prosecutor would submit that the evidence of PW.1 is well supported by the evidence of PW.2 and further corroborated by the evidence of PW.4. The Investigation Officer had given the details of the investigation, who was examined as PW.5. The learned Additional Public prosecutor also had taken this Court through the Ex. P-1 wound certificate, Ex. P-2 report given by PW.1, Ex. P-4 observation Report and Ex. P-5 rough sketch.

4. The Sub-Inspector of Police, Pendurthi Police Station, Visakhapatnam laid the charge sheet against the accused for attempting to kill his daughter-in-law (PW.1) near Railway bridge at laxmipuram Railway Gate by beating with a "Boriga" punishable u/s 307 IPC. The VII Metropolitan Magistrate, Visakhapatnam registered the same as PRC No. 17/1997 and the same was committed to the Court of Session and ultimately the same was made over to the Sessions Judge, Mahila Court, Visakhapatnam who tried the matter, recorded the evidence of PWs.1 to PW.5 and marked Exs. P-1 to P-5 and also recorded the evidence of DW.1 and marked Ex. D-1 apart from MO.1-Boriga was also marked. Ultimately, the learned judge convicted the accused u/s 324 IPC and sentenced him to undergo Rigorous Imprisonment for one year and also to pay a fine of Rs. 1,000/- in default to undergo Simple Imprisonment for three(3) months. The case of the prosecution in brief may be narrated as hereunder::-

5. Accused is the father-in-law of Besetti Venkatamma (PW.1). Four months prior to the incident, the accused, PW.1 and her husband had been living together in Chinthala Agraharam village, Pendurthi village and Mandal, Visakhapatnam. She gave a report to the police alleging that the accused beat and outraged her modesty with an intention to fulfill his lust and a Sessions Case was registered against him in S.C. No. 67 of 1997 and he was convicted for the offence u/s 324 IPC and sentenced to undergo six months rigorous imprisonment and to pay a fine of Rs. 500/- and in default to undergo simple imprisonment for two months by the judgment dated 06-03-1999 and the accused preferred appeal against the said judgment and conviction and it is pending. Since the date of the above said incident, PW.1 has been living with her parents. She used to eat out her livelihood by selling vegetables and greens in Poorna market, Visakhapatnam, Boddeti Ganesh (PW.2), the nephew of the accused and PW.1 used to purchase vegetables and greens from the farmers of their village and sell in Poorna Market, Visakhapatnam daily. On 13-08-1998 at about 4.30 P.M while PW.1 and Ganesh(PW.2) were at the fields of Ganesh to purchase vegetables and greens, the accused approached PW.1 from her back, caught hold of her tuft and dragged her to some distance and proclaimed that he would not allow her to live and beat her with a Boriga (MO.1) underneath her left eye, on the left forehead and also on the left side of her stomach and thereby she sustained bleeding injuries. He abused her in filthy language, as she did not fulfill his lust, since a long time. Ganesh, PW.2, became scared on seeing the blood coming out from the injuries of PW.1 due to beating by the accused and ran to the fields of Kalla Demudu, the junior paternal-uncle of PW. 1 to bring him to the scene of offence to rescue her. After Ganesh left the scene of offence, the accused threw PW.1

down and put his leg on her throat but PW.1 pushed his leg aside and wriggled out of his clutches and ran to the house of her brother, Kalla Apparao (PW.1) situate in their village Chinthala Agraharam, PW.2 did not find Kalla Demudu at his fields and he returned to the scene of offence, but he did not find anybody there. He found Boriga (No. 1) at the scene of offence and he took the same to his house.

6. PW.1 deposed in detail about the incident. PW.1 specifically deposed that the accused stated that he would see the end while saying so, he beat with Boriga which was marked as MO.1. This witness clearly deposed about the giving of the report to the police and also she being examined by the Doctor and seizure of MO.1. This witness was cross-examined at length. PW.2 had supported the version of PW.1.

7. PW.3 deposed that on 13-8-97 at 4.00 P.M PW.1 left his house to purchase greens and returned home at 5.00 P.M with bleeding injuries and informed them that while she was going along with one Ganesh on the Gedda situate by the side of railway track, the accused approached her from her back and caught hold of her tuft and attempted to stab with "Boriga" and the other details also had been spoken to by this witness. This witness also deposed about the village panchayat at 6.30 P.M. Kalla Venkatarao, President of the village, informed them that in spite of the advise given by him, the accused did not change his behavior and advised! them to give a report to the police.

8. PW.4 deposed about the injuries suffered by PW.1 and also about his issuance of wound certificate-Ex. P-1. This witness deposed about the following injuries::-

1. A swelling of about 4" x 4" on the right cheek.

2. A swelling of about 3" x3" over the left cheek.

3. A lacerated injury of about 0.25 cm x 0.25 cms present one inch below and over the angle by left eye.

4. An abrasion of about 2 cm x 0.8 cms. of behind the left ear.

5. A skin deep laceration of about 1 cm x 0.5 cms present on the left lumbar region.

9. He was of the opinion that all the above injuries are simple in nature. PW.5 is the Investigation Officer deposed about the details of investigation. DW.1 was examined who had deposed that about two years ago at about 3.00 or 3.30 P.M while he was going to his agricultural land by walk, he had seen Ganesh taking PW.1 on bicycle and they crossed him and they fell on the road at a distance of 100 yards from him along with bicycle. Most probably, DW.1 was examined to explain that the injuries on the person of PW.1 was due to this incident. This aspect was taken into consideration and the same was disbelieved by the learned Judge. In view of the close relationship between the parties, the version of PW.1 definitely cannot be disbelieved. PW.1 is supported by the evidence of PW.2 and also further corroborated by the evidence of Doctor-PW.4. Hence,

this Court does not see any reasons to record a different finding and, therefore, the conviction recorded by the learned Judge u/s 324 IPC is hereby confirmed.

10. However, taking into consideration the age of the accused and also the relationship between the parties and the fact that the accused has to look after his grand-son, the accused is sentenced to undergo rigorous imprisonment for the period, which he had already undergone and also pay a fine of Rs. 1,000/- in default to undergo simple imprisonment for three(3) months for the offence u/s 324 IPC. It i! s brought to the notice of this Court that fine amount had already been paid. In view of the same, the appellant-accused is let off by sentencing him to undergo rigorous imprisonment for the period which he had already undergone and also the fine of Rs. 1,000/- in default to undergo simple imprisonment for three(3) months, which had been imposed by the learned Judge.

11. Except the modification of sentence, in all other particulars the said findings are hereby confirmed. The Criminal Appeal, accordingly, shall stand dismissed.