

HIGH COURT OF ANDHRA PRADESH**JUSTICE A.V. RAVINDRA BABU****Date of Decision: 1st March 2024**

CRIMINAL REVISION CASE NO. 96 OF 2010

Madipalli Venkata Rao @ Konda ...PETITIONER**VERSUS****State of Andhra Pradesh ...RESPONDENT****Legislation:**

Sections 451, 307, 387, and 393 of the Indian Penal Code (IPC).

Section 313 of the Cr.P.C.

Subject: Revision against the judgment of the Additional Sessions Judge in Criminal Appeal No.60 of 2006, challenging the conviction and sentence under Sections 451, 307, and 393 of IPC while acquitting under Section 387 of IPC.

Headnotes:

Criminal Revision Case – Challenging conviction under Sections 451, 307, and 393 IPC – Petitioner accused of house trespass, attempted murder, and robbery – Revision against judgment of Additional Sessions Judge confirming conviction and sentence except for acquittal under Section 387 IPC. [Paras 1, 10]

Prosecution's Case – Accused allegedly trespassed into house, attempted to murder and rob P.W.1 – Incriminating evidence from multiple witnesses and medical evidence corroborating injuries sustained by victim and accused during the incident. [Paras 5, 14-22]

Defence's Claim – Accused argued false implication due to non-payment of legal fees – Defence version during Section 313 Cr.P.C examination not corroborated during cross-examination or supported by evidence. [Paras 12, 31-33]

Medical Evidence – Medical Officer's testimony confirms timing and nature of injuries on P.W.1 and accused – Contradicts accused's defense of timing and manner of receiving injuries. [Paras 20, 34]

Judicial Findings – Both Principal Assistant Sessions Judge and Additional Sessions Judge correctly appreciated evidence – Conviction under Sections

451, 307, and 393 IPC affirmed – Defence of false implication dismissed.
[Paras 35-37]

Modification of Sentence – Considering the prolonged pendency of the case and the age of the petitioner, sentence reduced from five years to three years each for offences under Sections 451, 307, and 393 IPC – Fine and default sentence to remain unchanged. [Paras 38-40]

Referred Cases: None

ORDER:

Challenge in this Criminal Revision Case is to the judgment, dated 07.07.2009 in Criminal Appeal No.60 of 2006, on the file of I Additional Sessions Judge, West Godavari at Eluru ("Additional Sessions Judge" for short), whereunder the learned Additional Sessions Judge, dismissed the Criminal Appeal insofar as the conviction and sentence under Sections 451, 307 and 393 of the Indian Penal Code ("IPC" for short) is concerned and set aside the conviction recorded by the learned Principal Assistant Sessions Judge, Eluru for the offence under Section 387 of IPC.

2) The present petitioner is the unsuccessful accused in Sessions Case No.167 of 2003, on the file of Principal Assistant Sessions Judge, Eluru and unsuccessful appellant as above in Criminal Appeal No.60 of 2006, on the file of Additional Sessions Judge.

3) The parties to this Criminal Revision Case will hereinafter be referred to as described before the trial Court for the sake of convenience.

4) The Sessions Case No.167 of 2003 arose out of a committal order in P.R.C.No.46 of 2002, on the file of II Additional Judicial Magistrate of First Class, Eluru.

5) The brief facts of the case of the prosecution according to the charge sheet filed by the Sub-Inspector of Police, Eluru I Town L&O Police Station in Crime No.15 of 2002 of Eluru I Town L&O Police Station is that the accused is resident of Kasipadu Village of Ganapavaram Mandal. In the year, 1995 he involved in a criminal case vide Crime No.93 of 1995 under Sections 452, 307 r/w 34 of IPC of Ganapavaram Police Station. The learned Assistant Sessions Judge, Tadepalligudem, convicted the accused for a period of one year in Sessions Case No.117 of 1996 on 12.03.1998. On the advice of his counsel at Tadepalligudem, accused approached L.W.2-Kanala Ramakrishna Rao, Advocate of Eluru, so as to prefer appeal in the Sessions Court at Eluru. So, in that process, the accused used to visit the house of L.W.2 bearing Door No.7A-8-53 frequently. In the house of L.W.2, ground floor was occupied by Sri Vasavi Silk House and staircase on its northern side portion was occupied by L.W.1-Kanala Rajya Lakshmi, wife of L.W.2 and southern side portion was occupied by L.W.3-Kanala China Maddeswara Rao and L.W.4-Kanala Ranganayakamma, who are the brother-in-law and co-daughter in-law of

L.W.1. Since last three years during the appeal the accused used to visit the house of L.W.1 and L.W.2 for about 15 to 20 times. Finally, the Criminal Case in which the accused involved and convicted was ended with an acquittal by the appellate Court as the appellate Court allowed the Criminal Appeal three months prior to the incident. The accused was advised by L.W.2 that he would get the judgment papers from his house. Accordingly, the accused visited Eluru on 18.02.2002 and came to the house of L.W.2 at about 1-30 p.m., knowing well that by then L.W.2 was not available in the house. He pressed the calling bell from the ground floor. Then L.W.1 came down and informed that L.W.2 was not available. Accused requested her to give some water for drinking. Then she opened the gate and went to staircase for fetching water to the accused. Then the accused approached behind her and suddenly threatened and demanded her where she kept money and gold jewelry. She felt afraid of the accused and she raised alarm. Then the accused pounced upon her, pressed her neck preventing her from raising cries and caused scratches over the neck and attempted to kill her so as to commit theft of gold nanutrada and black beads chain from the neck of L.W.1. During course of struggle, she fell on ground. The black beads chain was delinked and the bangles of L.W.1 were also broken and scattered in the hall. On hearing the cries of L.W.1, L.W.3-Kanala China Maddeswara Rao and L.W.4-Kanala Ranganayakamma, who were residing in the southern side portion, came there and witnessed the incident. Then they raised hue and cry and on hearing the cries from the house of L.W.1, the neighbourers i.e., L.W.5-Janyavula Venkata Satyanarayana, L.W.6-Janyavula Naga Satya Saibabu, L.W.7-Basava Malleswara Rao and L.W.8-Kanala Maddeswara Rao came and rescued L.W.1 from the hands of accused. During the rescue operation, L.W.5 to L.W.8 came and separated the accused when he caught hold of the neck of L.W.1 and he was thrown to a wall, as such, the accused sustained a small injury on the back of his head. The accused was brought to Eluru I Town Police Station by L.W.5 to L.W.7 and on knowing the incident, L.W.2, the husband of L.W.1, came to the police station. Then L.W.1 presented a report. L.W.12-Md. Liyaquat Ali, Asst. Sub-Inspector, Eluru I Town Police Station, registered the report as a case in Crime No.15 of 2002 under Sections 448, 307, 380 r/w 511 of IPC at 3-00 p.m., on 18.02.2002 and investigated into. During the course of investigation, L.W.12 seized the delinked gold black beads chain when it was produced by L.W.1. L.W.12 forwarded L.W.1 to the medical officer for necessary medical aid and for noting the injuries on the person caused by the accused. He visited the scene of offence, observed the same in the presence of L.W.9- Patchipulusu Sujana and L.W.10-Tallapragada Nagendra Prasad, mahazar witnesses and seized the broken glass bangles from the hall under the cover of mahazarnama. He prepared rough sketch of the scene of offence. He also sent the injured-accused to the Government Hospital, Eluru for treatment to his head injury which was caused during separation from L.W.1. The accused was arrested on 18.02.2002 and he was sent for remand. L.W.13-M. Venkateswara Rao, Sub-Inspector of Police, took up investigation from L.W.12. He obtained the wound certificate of L.W.1 from L.W.11-Dr. T. Rama Mohana Rao, medical officer, who opined that the injuries

sustained by L.W.1 are simple in nature. After completion of investigation, L.W.13 filed the charge sheet.

6) The learned II Additional Judicial Magistrate of First Class, Eluru, took cognizance under Sections 451, 307, 387 and 393 of IPC and numbered it as a PRC and after complying the provisions of Section 207 of the Code of Criminal Procedure ("Cr.P.C." for short) and exercising the power under Section 209 of Cr.P.C., committed the case to the Court of Sessions. The Court of Sessions after numbering the case as Sessions Case No.167 of 2003 made over to the Principal Assistant Sessions Judge, Eluru, for disposal in accordance with law.

7) On appearance of the accused before the learned Principal Assistant Sessions Judge, charges under Sections 451, 307, 387 and 393 of IPC were framed and explained to the accused in Telugu for which he pleaded not guilty and claimed to be tried.

8) During the course of trial, on behalf of the prosecution, P.W.1 to P.W.8 were examined and Ex.P.1 to Ex.P.6 and M.O.1 and M.O.2 were marked. After closure of the evidence of prosecution, accused was examined under Section 313 of Cr.P.C. with reference to the criminating circumstances appearing in the evidence let in by the prosecution for which he denied the same and stated that he has no defence witnesses. The accused put forth a version in Section 313 of Cr.P.C. examination which will be discussed hereinafter.

9) The Principal Assistant Sessions Judge on hearing both sides and on considering the oral as well as documentary evidence, found the accused guilty of the charges under Sections 451, 307, 387 and 393 of IPC, convicted him under Section 235(2) of Cr.P.C. and after questioning him about the quantum of sentence, sentenced him to suffer rigorous imprisonment for five years and to pay fine of Rs.250/- in default to suffer simple imprisonment for one month for the offence under Section 451 of IPC; to suffer rigorous imprisonment for five years and to pay fine of Rs.250/- in default to suffer simple imprisonment for one month for the offence under Section 307 of IPC; to suffer rigorous imprisonment for five years and to pay fine of Rs.250/- in default to suffer simple imprisonment for one month for the offence under Section 387 of IPC and to suffer rigorous imprisonment for five years and to pay fine of Rs.250/- in default to suffer simple imprisonment for one month for the offence under Section 393 of IPC. They shall run concurrently.

10) Felt aggrieved of the aforesaid conviction and sentence, the unsuccessful accused filed Criminal Appeal No.60 of 2006 before the learned Additional Sessions Judge and the Additional Sessions Judge allowed the Criminal Appeal insofar as conviction and sentence under Section 387 of IPC is concerned and confirmed the conviction and sentence imposed insofar as Sections 451, 307 and 393 of IPC is concerned. Felt aggrieved of the same, the unsuccessful appellant filed the present Criminal Revision Case,

challenging the judgment of the learned Additional Sessions Judge in Criminal Appeal No.60 of 2009.

11) Now, in deciding the present Criminal Revision Case, the point that arises for consideration is whether the judgment, dated 07.07.2009 in Criminal Appeal No.60 of 2006, on the file learned Additional Sessions Judge is sustainable in law and facts in terms of legality, regularity or propriety and whether there are any grounds to interfere with the same?

Point:-

12) Sri Raja Reddy Koneti, learned counsel appearing for the petitioner, would contend that the petitioner, who was a client of P.W.2, was made a scapegoat in a case of false implication. The petitioner was due of fee payable by him to P.W.2 as P.W.2 defended him in a Criminal Appeal. On a fateful day when the accused approached P.W.2 at his house, there was a quarrel with regard to fee for which the accused offered Rs.3,000/- instead of Rs.10,000/- and then P.W.1 and P.W.2 beat him and caused injuries and anticipating a report from the accused, they implicated the accused by lodging Ex.P.1. Police were pressurized by P.W.2 to implicate the accused. The injuries on the person of the accused were also noted by the medical officer. Both the Principal Assistant Sessions Judge as well as Additional Sessions Judge did not appreciate the facts in a proper perspective. The accused put forth a detailed version in Section 313 of Cr.P.C. examination which was not considered properly. The evidence adduced by the prosecution suffers with any amount of infirmities and a petty quarrel with regard to the fee between a client and Advocate was magnified as a case of attempt of murder, robbery and house trespass. He would submit that in accordance with the evidence of medical officer, he noted injuries on the person of accused. P.W.1 and P.W.2 were wife and husband and P.W.3 was also brother of P.W.2, who was interested in the case of the prosecution and P.W.4 and P.W.5, the so-called neighbourers, were adjacent to the house of P.W.2 who were subjected to influenced by him, as such, they gave false evidence. The learned counsel would further submit that at any rate, the evidence on record does not warrants the conviction for the charges that were held to be proved, as such, at best the allegations would only attract the ingredients of Section 323 of IPC and the Court may allow the Criminal Revision Case accordingly.

13) Smt. D. Prasanna Lakshmi, learned counsel, representing the learned Public Prosecutor, would contend that both the learned Principal Assistant Sessions Judge as well as learned Additional Sessions Judge on thorough appreciation of the evidence on record rightly convicted and sentenced the accused.

The accused had no business to go to the house of P.W.2 when he was not available physically and by then when he was available at the Court. There was no need for P.W.1 and P.W.2 to implicate the accused falsely. The injuries received by P.W.1 on her neck were proved by medical evidence. P.W.3 and

P.W.4 were not relatives of P.W.1 and P.W.2, who were immediate neighbours, as such, having heard the cries of P.W.1, they rushed there. P.W.4 and P.W.5 were not interested in the case of the prosecution. The evidence on record warrants the conviction for which the accused was convicted and absolutely there are no merits in the Criminal Revision Case, as such, it is liable to be dismissed.

14) P.W.1 was the victim. P.W.2 was the husband of P.W.1 and he was an Advocate by profession. P.W.3 was a direct witness to the occurrence. P.W.4 was a neighbourer who claimed that he witnessed the occurrence. P.W.5 was also a neighbourer, who witnessed the occurrence. P.W.6 was medical officer, who examined the victim and issued wound certificate and he was also the person who examined the accused with regard to the injuries on his person. P.W.7 was the mediator to the observation of the scene of offence by the police. P.W.8 was the Sub-Inspector of Police, who verified the investigation done by L.W.12-Md. Liyaquat Ali, Asst. Sub-Inspector and gave evidence.

15) Coming to the evidence of P.W.1 on material aspects, her evidence is that her husband is an Advocate in Eluru. Accused used to visit their house to consult her husband on his case purpose. On 18.02.2002 after her husband went to Court, she was alone present in the house. At 1-30 p.m., accused came and pressed the calling bell from the ground floor. On hearing the calling bell, she came down and informed to the accused that her husband is not available in the house. Then the accused requested her to give drinking water. She opened the gate. Accused came behind her and entered into the house and threatened and demanded her to give money and jewelry. When she questioned him as to who are you to demand money and jewelry, accused threatened her that he would take away money and jewelry even by killing her. The accused pressed her neck and prevented her from crying. She escaped from the hands of the accused and raised cries. He pushed her down and snatched her black beads chain forcibly and pressed her neck. Then she released herself from the hands of the accused and raised cries. During the struggle, her bangles were broken and black beads chain was also delinked. On hearing her cries, L.W.3 and his wife L.W.4 who were residing in their side portion came there. Even by then also accused was twisting her neck. On seeing the same, L.W.3 and L.W.4 raised cries. On hearing their cries, L.W.5, L.W.6, Malleswara Rao, L.W.9 and some others rushed there and caught hold of the accused. Accused tried to escape but the other persons caught hold the accused and took him to the police station. Then she and L.W.3 went to the police station and she gave report to the police. They handed over the accused to the police. Ex.P.1 is her report. During struggle at the time of incident, the scratches are caused to her neck and she also sustained invisible injuries to right thumb, left hand and blood also clotted at her left hand and bleeding came out from her nose. She identified her black beads chain and bangle pieces. M.O.1 is black beads chain and M.O.2 is broken bangle pieces.

16) Turning to the evidence of P.W.2, the husband of P.W.1, he deposed that previously the accused was convicted for one year in Sessions Case No.117 of 1996 by the Assistant Sessions Judge, Tadepalligudem. As per the advice of his Advocate, the accused approached him to prefer appeal against the conviction in the District Court. Subsequently, in the year 2001 the accused was acquitted and the appeal was allowed. The accused came to his house during the pendency of the appeal in 20 occasions. On 18.02.2002 he (P.W.2) came to the Court. At about 2-15 p.m., he received a phone call from his house and from some neighbourer shop owners informed about the incident. Then he rushed to I Town Police Station, Eluru, at about 2-30 p.m. or 3-00 p.m. In the police Station, his wife, his brother, his sister-in-law and his neighbours and accused were present. He asked P.W.1 as to what happened. Then she revealed as to what happened in the house in the hands of the accused. After she narrated her version in detail, he found scratches around the neck of P.W.1 and also injuries on her right thumb, left hand and found blood coming from the nose. Then police referred P.W.1 to the government hospital. M.O.1 is the black beads chain belongs to his wife. M.O.2 is bangle pieces. Accused entered into the house in his absence with an intention to kill his wife and take the cash and gold.

17) P.W.3, the brother of P.W.2, deposed that on 18.02.2002 at 1-30 p.m., while he was in his house, he heard cries of P.W.1 from their portion. Then he and his wife rushed there. By the time they reached there, accused was throttling P.W.1. On seeing them, they raised cries and tried to save P.W.1 from the hands of the accused. Meanwhile, L.W.5, L.W.6 and their clerk Malleswara Rao, L.W.9 came there. Then the accused tried to escape, but they caught hold of the accused. When the accused tried to push them, he (accused) fell down and sustained injuries to his head. Thereafter, they took him to the police station and handed over to the police. P.W.1 sustained scratch around the neck and injuries on her left hand and right thumb and blood came out from her nose.

18) Turning to the evidence of P.W.4, he deposed that the house of P.W.1 and P.W.2 is situated opposite to his shop. On 18.02.2002 at about 1-30 p.m., he heard the cries from the house of P.W.1. Then he and his brother went to the house of P.W.1 and found the accused pressing the neck of P.W.1. They found that P.W.3 and his wife are trying to rescue P.W.1 from the hands of the accused. Then he and his brother also tried to rescue P.W.1 from the hands of P.W.1. During that struggle, accused fell down on the ground and sustained injuries to his head. Thereafter, they all brought the accused to the police station and handed over to the police. Thereafter, P.W.2 came to the police station. They found scratches around the neck of P.W.1. She handed over the delinked black beads gold chain to the police.

19) According to P.W.5, he is working in Ravi General Stores, situated in Main bazaar, Eluru. At about 1-30 p.m., he heard cries from the house of P.W.1. Then he and his owners Satyanarayana and Saibabu rushed to the house of P.W.1. They found the accused pressing the neck of P.W.1. P.W.3

and his wife were trying to rescue P.W.1. Meanwhile, L.W.8 came there. They all tried to rescue P.W.1 from the hands of the accused. They took the accused to police station and handed over to him to the police. He observed scratches around the neck of P.W.1.

20) P.W.6 is the medical officer, who examined the injured and issued wound certificate. According to him, on 18.02.2002 at 3-45 p.m., he examined P.W.1 brought by Eluru I Town Police Station and found the following injuries:

- (1) Nail mark of 1" with bleeding over right side of lower part of neck.
- (2) multiple superficial red coloured abrasion of varying dimensions over front of neck region.
- (3) three different lineal scratch marks of approximate 5" x ½" deep red coloured with swelling of surrounding areas, secondary to application of pressure over the neck. (4) two small red coloured superficial abrasions back of the neck nail marks.
- (5) two different superficial abrasions red coloured over right scapular region approximate 3" x 1" dimension. (6) diffuse red coloured contusion over base of right thumb. (7) bleeding beneath the right thumb nail. (8) blood clot brown colour over palmer aspect of left hand. (9) bleeding through left nostril.
- (10) pain in over head and neck region.

He issued Ex.P.2 wound certificate. He opined that the injuries are simple in nature and might be caused in less than four hours prior to his examination.

His evidence is also that on 18.02.2002 at 4-15 p.m., he examined Madupalli Venkata Rao (Accused) and found (1) diffuse contusion left parieto temporal regions of scalp with small ½" cut injury and bleeding present and (2) diffuse contusion right forehead. He issued Ex.P.3 wound certificate. He opined that the injuries are simple in nature and might be caused in less than four hours prior to his examination.

21) Prosecution examined P.W.7 to speak to the fact that in his presence the police observed the scene of offence and seized M.O.2 bangle pieces. Ex.P.4 is the scene observation report.

22) As L.W.12-Md. Liyaquat Ali, Asst. Sub-Inspector, who investigated the case was expired, the prosecution examined P.W.8, the Sub-Inspector of Police. According to him, he verified the investigation done by L.W.12. L.W.12 died about one year ago. On 18.02.2002 L.W.12 registered the Crime No.15 of 2002 on the basis of the report of P.W.1 under Sections 448 and 307 r/w 511 of IPC. L.W.12 examined P.W.1 to P.W.5. L.W.12 examined the scene of offence and prepared observation report in the presence of P.W.7 and L.W.9. Scene of offence is the house of P.W.1 and P.W.2. L.W.12 seized broken

bangle pieces from the scene of offence under the cover of Ex.P.4-mahazar. Ex.P.5 is FIR. Ex.P.6 is rough sketch. On 19.02.2002 L.W.12 arrested the accused and sent him to the remand. P.W.8 further deposed that on 15.03.2002, he (P.W.8) examined P.W.6 and obtained Ex.P.2 and Ex.P.3 wound certificates. After completion of investigation, he filed charge sheet. At the time of lodging of Ex.P.1, P.W.1 handed over M.O.1 to L.W.12-Md. Liyaquat Ali, Asst. Sub-Inspector.

23) It is to be noted that the present Criminal Revision Case arose against the concurrent findings of the Principal Assistant Sessions Judge as well as the Additional Sessions Judge. When the Principal Assistant Sessions Judge found the accused guilty of the charges under Sections 451, 307, 387 and 393 of IPC, the Additional Sessions Judge confirmed the conviction and sentence insofar as the offences under Sections 451, 307 and 393 of IPC is concerned and allowed the Criminal Appeal insofar as the conviction under Section 387 of IPC. So, the present Criminal Revision Case arose against the concurrent findings for the offences under Sections 451, 307 and 393 of IPC. While deciding the Criminal Revision Case, the scope of this revision is limited as to whether the findings of the learned Additional Sessions Judge so as to confirm the findings of the learned Principal Assistant Sessions Judge, suffers with any illegality, irregularity and impropriety. Keeping in view of this, the Criminal Revision Case is dealt with.

24) Admittedly, it is a case where the criminal law was set in motion by virtue of lodging Ex.P.1 report by P.W.1. Ex.P.1 was lodged at 3-00 p.m. The time of offence was said to be at 1-30 p.m. Considering the episode as depicted in Ex.P.1 and considering the circumstances, it cannot be held that there was any delay in lodging Ex.P.1. The evidence of P.W.1 has corroboration from the contents of Ex.P.1 literally. P.W.2 was the husband of P.W.1, who claimed that he came to know the occurrence and rushed to the police station and by then P.W.1, P.W.3, accused and others were there in the police station and he came to know about the occurrence through P.W.1. P.W.3 to P.W.5 were the witnesses to the occurrence. Undoubtedly, the evidence of P.W.1 has corroboration from the evidence of P.W.3, her brother-in-law, being the brother of her husband and P.W.4 and P.W.5, the adjacent shop owners. Hence, all these witnesses i.e., P.W.1, P.W.3, P.W.4 and P.W.5 categorically testified the presence of the accused in the house of P.W.1 at the time of incident in question. Accused admitted his presence in the house of P.W.1 during his Section 313 of Cr.P.C. examination.

25) For better appreciation, firstly, it is pertinent to look into the manner in which the accused sought to impeach the testimony of the prosecution witnesses.

26) Coming to the cross examination of P.W.1, her husband is practicing as an Advocate in Eluru. She knows the accused since six or seven months prior to the date of Ex.P.1, as he is frequently visiting to his husband's office as his client. Accused did not telephone to P.W.2 on 18.02.2002 morning to

come to the office of her husband to take certified copy of appeal. She denied that she received that phone call from the accused and she asked him to come to their house along with fee and to take certified copies of the judgment. She denied that her husband accompanied her to the police station and he got prepared Ex.P.1 through her. She denied that her husband tutored her to give evidence. She denied that she does not know L.W.5 to L.W.7 and L.W.9. She denied that as the accused did not pay fee to her husband, her husband got prepared false report, filed it through her in the police station and that her husband is an Advocate who influenced the police and foisted the case. The above part of cross examination of P.W.1 reveals that nothing was elicited from her cross examination to disbelieve her testimony. So, she knows the accused as he used to visit her house as a client of her husband several times prior to six or seven months to the date of incident. In the entire cross examination, accused did not dispute his presence at the house of P.W.1 on the date of incident. On the other hand, he did not impeach the testimony of P.W.1 on certain aspects i.e., the events happened in her house attributed to the accused.

27) Turning to the evidence of P.W.2 in cross examination, he admitted that he was not a witness to the occurrence, but he came to know about the incident through his wife. He denied that the accused telephoned to his house on 18.02.2002 morning. He deposed that he got knowledge that police referred the accused to the Government Hospital. He denied that as the accused failed to pay the fee, his wife, his brother and his sister-in-law beat the accused and accused sustained injuries to his head and that they foisted a false case against the accused.

28) Coming to the cross examination of P.W.3 he denied that at the time of alleged offence, he was not present in the house and that he is deposing false. This is the only cross examination of P.W.3.

29) Turning to the cross examination of P.W.4, he denied that it is not possible for them to hear the cries from the house of P.W.1. He denied that he does not know anything about the case.

30) It is to be noted that though P.W.1 to P.W.3 are the interested witnesses to the occurrence, but as evident from the evidence of P.W.4 and P.W.5, they are immediate neighbourers to the house of P.W.1 and P.W.2, as such, they claimed that on hearing the cries from the house of P.W.1, they rushed into the house of P.W.1 and found the accused throttling the neck of P.W.1. The evidence of P.W.3 and P.W.4 is so clear that in the process of separating the accused from P.W.1, the accused fell down, as such, he sustained injuries. The evidence of P.W.3 to P.W.5 is very clear that they took the accused to the police station and handed him to the police. So, the circumstance in which Ex.P.1 was lodged was well explained by the prosecution. In that process the delay of one hour or 1 ½ hour in lodging the report is not at all fatal to the case of the prosecution.

31) Turning to the defence set forth by the accused, his defence is that as he failed to pay the fee to P.W.2, he was implicated falsely. At this juncture, it is pertinent to refer here his Section 313 of Cr.P.C. examination statement. The accused set forth a defence during Section 313 of Cr.P.C. examination that on 18.02.2002 at 9-30 a.m., he went to the house of P.W.2, his Advocate. He tried to hand over an amount of Rs.3,000/- to P.W.2 as fee, as P.W.2 defended him in the case. Then P.W.2 demanded him to pay an amount of Rs.10,000/- for which he (accused) expressed his inability. Then P.W.2 abused him, pounced upon him and beaten him. In the meantime, the wife of P.W.2 i.e., P.W.1 also came there, caught hold of his tuft and beat him. Apart from that, they took a lock and beaten him with that lock on his head. Then he thrown her, as such, she fell down and received injuries. Thereafter, he went to the police station and explained as to what happened. A.S.I. recorded his statement. In the meantime, P.W.1, P.W.2 and others came there and talked with A.S.I. Then he was referred to the hospital and later he was implicated falsely. This is version of the accused in Section 313 of Cr.P.C. examination.

32) Turning to the cross examination part of P.W.1, it is nowhere suggested to P.W.1 that he came to the house of P.W.1 at 9-30 a.m. The cross examination part of P.W.1 is nothing but evasive without putting forth the defence of the accused except elicited some other answers. Turning to the cross examination of P.W.2, who is husband of P.W.1, accused did not suggest the so-called version in Section 313 of Cr.P.C. examination. Nothing was put before P.W.2 that at 9-30 a.m., accused visited him and offered fee of Rs.3,000/- and that he demanded Rs.10,000/- and that when the accused refused to pay, he and his wife beaten him, etc. Similar is the situation in respect of cross examination part of P.W.3, P.W.4 and P.W.5.

33) According to the defence of the accused during Section 313 of Cr.P.C. examination, he received injuries at 9-30 a.m. According to him, while warding off the attack, he thrown P.W.1 and she fell down and received injuries. Now it is appropriate to look into the medical evidence.

34) As evident from the evidence of P.W.6, the medical officer, he examined the injured (P.W.1), accused and issued wound certificates. He examined P.W.1 on 18.02.2002 at 3-45 p.m. He examined accused at 4-15 p.m. The evidence of P.W.6 is very categorical that P.W.1 and the accused might have received injuries in less than four hours prior to his examination, which supports that the incident was happened at 1-30 p.m. Nothing was suggested to P.W.6 disputing the fact that the time of injuries received by P.W.1 and accused was more than four hours. If really accused and P.W.1 received injuries at about 9-30 a.m. as alleged by the accused, time of injuries would have been more. So, the testimony of P.W.6, the medical officer, was not at all impeached in this regard. Further P.W.6 denied the defence theory of the accused that there was a possibility for P.W.1 to receive the injuries by fall. The medical evidence falsifies the defence of the accused. The testimony of P.W.1 has corroboration from P.W.3 to P.W.5 as well as from P.W.6, the

medical officer. Hence, the ocular testimony has corroboration from the medical evidence also. Absolutely, the accused miserably failed to probabilize his theory that he was falsely implicated in the case.

35) Both the learned Principal Assistant Sessions Judge as well as the learned Additional Sessions Judge rightly appreciated the evidence in this regard.

36) It was a case that the evidence on record obviously attracts an attempt to commit robbery by accused against P.W.1. Apart from this, the evidence on record establishes the essential ingredients of Section 451 of IPC, the house trespass so as to commit an offence punishable with imprisonment. Apart from this, the numerous scratches received by P.W.1 extensively on neck go to prove the fact that the accused strangled the neck of P.W.1 when she was alone in the house. He applied force on the neck of P.W.1 so as to prevent her from raising cries and he applied the pressure even by the time P.W.3 to P.W.5 rushed there. It was not a single scratch on the neck of P.W.1. The medical evidence on record present a situation that P.W.1 received as many as 6 injuries on her neck by indiscriminate pressure applied by the accused with all force. The accused had every knowledge that if he strangled the neck of P.W.1, which is a crucial part of her body, there is every likelihood of her causing death. The evidence on record undoubtedly establishes the essential ingredients of Sections 451, 307 and 393 of IPC. The plea of false implication can altogether be ruled out safely. The contention of the revision petitioner that at best the allegations attract Section 323 of IPC only is devoid of merits.

37) Under the circumstances, both the learned Principal Assistant Sessions Judge as well as the learned Additional Sessions Judge on thorough analyzation of the evidence on record, recorded finding of facts. The finding of facts recorded by the both learned Principal Assistant Sessions Judge as well as learned Additional Sessions Judge does not suffer with any illegality, irregularity or impropriety.

38) In the light of the above, absolutely, this Court does not find any ground to interfere with the judgment of the learned Additional Sessions Judge in Criminal Appeal No.60 of 2006, dated 07.07.2009, on the file of I Additional Sessions Judge, West Godavari at Eluru. At this stage, the learned counsel for the revision petitioner is physically present and made an appeal that looking into the fact that the Criminal Revision Case is pending since the year 2010 and the offence in question was happened in the year 2002, the Court may consider to reduce the term of imprisonment and as of now the revision petitioner is aged about 50 years.

39) There is no dispute about the date of incident in the year 2002. There is also no dispute about the pendency of this revision petition since the year 2010. Taking into consideration the said representation and having regard to the overall facts and circumstances, the ends of justice will meet, if the

rigorous imprisonment of five years each imposed by the learned Principal Assistant Sessions Judge against the accused for the offences under Sections 451, 307 and 393 of IPC is reduced to three years each by keeping the fine amount undisturbed.

40) In the result, the Criminal Revision Case is dismissed by modifying the sentence of rigorous imprisonment of five years each imposed by the learned Principal Assistant Sessions Judge for the offences under Sections 451, 307 and 393 of IPC against the accused is reduced to three years each. The fine imposed and default sentence shall continue.

41) The Registry is directed to take steps immediately under Section 388 Cr.P.C. to certify the order of this Court to the trial Court on or before 07.03.2024 and on such certification, the trial Court shall take necessary steps to carry out the modified sentence imposed against the appellant/accused and to report compliance to this Court.

42) The Registry is directed to forward the record along with copy of the order to the trial Court on or before 07.03.2024.

Consequently, miscellaneous applications pending, if any, shall stand closed.

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