

**IN THE COURT OF XV ADDL. METROPOLITAN MAGSTRATE, MEDCHAL-MALKAJGIRI
DISTRICT, AT KUKATPALLY**

Tuesday, the 06th day of February, Two thousand and Twenty-four

Present: **Sri R.K. VENKATA RAMANA SUHAS,**
XV Additional Metropolitan Magistrate,
KUKATPALLY, MEDCHAL-MALKAJGIRI DISTRICT

C.C. No. 1864 of 2017

Between:

State of Telangana through Sub-Inspector of Police, P.S., KPHB

...Complainant

AND

1. Tallapareddy Sridhar Reddy, S/o T. Janardhana Reddy, aged 41 years, Occ: Pvt. Job, R/o F. No. 208, Manjeera trinity homes, KPHB colony, Cyberabad, N/o Vellanki village, Veerulapadu mandal, Krishna District
2. Doppalapudi Rajesh, S/o D. Prasad, aged 41 years, Occ: Business, R/o Village No. 67, Ramky Pearl, Shathavahananagar, Kukatpally, Hyderabad

...Accused Persons/Respondents

This criminal case is coming on this day for Judgement before me in the presence of the Ld. Assistant Public Prosecutor, for the State and Sri G. Chandra Sekhar and Ms. J. Madhavi Latha, Ld. counsels appearing for the for the accused, the matter having stood over for consideration till this day, this court delivered the following:

JUDGEMENT

1. The present calendar case arises out of charge sheet filed in crime no. 1340 of 2017, laid by Sub-Inspector of Police, P.S. KPHB, for the offences under section 341, 323 and 506(ii) of the Indian Penal Code, 1860 i.e. wrongful restraint, voluntarily causing hurt and criminal intimidation, with threat being to cause death, grievous hurt etc.

2. The case of the prosecution stated in brief, are that PW1 (Sri Chodavarapu Srinivas) filed a report, stating as follows: Accused persons were known to him from the past 20 years, that Srikar is his classmate in college. The accused persons started a company by the name PARAS in November 2015 and appointed him as manager operation, they promised him to pay him Rs. 40 thousand, luring him that they will give him something in large amount once the company is in good progress. In the meanwhile, they began sand mining process at Bhadrachalam, that when they visited the place on 12.03.2015, he came across Srikar at MRO office, that there he came to know about his business there, that in in discussion Mr. Srikar requested him to arrange a meeting with the accused persons. After 2 days, on 14.03.2015, accused no. 2 insisted him to bring Mr. Srikar for a business meeting, out of their own

interest and insisted him continuous and that therefore, he made up a meeting in Bhadrachalam, that after coming to Hyderabad, Srikar kept calling him for a number of times, frequently and kept on requesting him to arrange a meeting for the merger of both their companies and that he in return promised to pay him an amount of 15 to 20 lakhs. The accused persons too simultaneously lured him and gave him a self-promised word, to pay Rs. 20 lakhs once the sand mining project starts. On 22.03.2015 morning, at 10:30 P.M., he arranged a good meeting in Kukatpally Ramky pearls, which is above the residence of accused no. 2, that with his coordination and cooperation, both the companies got merged with good understanding between them. After the meeting, they all began to avoid the complainant for all the future meetings and started threateneing him and Srikar especially, was not at all responding to his calls. The said Srikar and accused no. 2 began insulting about him before everyone. He came to know very soon, that they were doing a new sand mining project all together, near Manugur, that they maintained secrecy before him. After long time, he also asked about his salary and their promised amount for the deal done, in the month of March. They denied giving me even a single paisa (both his salary and deal amount). They did not even pay the salary from the month of 2015 to September 2015. accused persons recklessly said get out of here and you may go to hell and to tell anyone who dares to confront them. On 07.09.2015, at around 10:15 P.M., in the night, the accused persons and two others came to his residence to attack him, that he was not available as he had gone out for his dinner, that accused no. 1 accordingly called him, from the phone of another gang member, asked him to come and meet them immediately and that he will give some money. The complainant accordingly met them at JNTU/VRK silks, near residence of their common friend, who is the eyewitness of the attack. Accused no. 1 immediately attacked him, started thrashing him with using abusive filthy language. Accused no. 2 also joined him and ambushed on him brutally where he was in shell shock. They started strangulating him very hardly. He was screaming and looking for help. Accused persons were both in inebriated condition and were kicking him on his face, stomach and back. They came with a decision to kill him. after keeping beating him in the roads of JNTU for a very long time, inspite of his continuous requests to leave him, they did not show mercy on him. Instead the accused persons threatened to kill him by putting his head on railway track and said to him to not stay in Hyderabad anymore and that if they come to see him again there, they will assassinate him. they also claimed that they knew a number of big men in the city/state. They forced him to leave the city immediately. He was in a greate panic and was frightened totally. He left the city

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haplessly in the next coming days and recently, on 31.08.2017, this year, accused no. 1 called him up on his number four to five times and began to threaten him again as to why he came to Hyderabad, that they came to know that he approached police to file a complaint, that whether he does not wish to live his peaceful life and asked him to go out of Hyderabad and to tell him the name of the police officer, who can file a complaint against him and that he will show them and him, his influence and threatened that if he once again approached the police, they will stab him and slant his neck. This is the language that accused no. 1 used against them. He was really in a great panic, totally frightened with the warnings from the accused persons and that they in the past, attacked him brutally like animals, with no discretion and that his life was under danger and that he has life threat from accused persons. He therefore, requested for necessary action to be taken against the accused person.

3. Based on the said report, LW5-Sri Ch. Kushalkar registered and FIR, vide crime no. 1340/2017 under sections 341, 506 and 506(ii) of IPC and entrusted the investigation to PW3 (Sri D. Mahesh).

4. During the course of investigation, PW3 recorded the statements of PW1 and PW2, visited the scene of offence and conducted the scene of offence panchnama in the presence of panch witnesses, LW3-Sri Boyinapally Anil Kumar and LW4-Sri Kurati Nagabhushanam. While the investigation was in process, on 10.12.2017, the accused persons came and surrendered before PW3, were served with Section 41A, CrPC notice and were released. After the completion of the investigation, PW3 filed a charge-sheet against the accused persons.

5. On filing of the charge-sheet, the Court took cognizance of the offences under section 341, 323 and 506(ii) of the Indian Penal Code, 1860 i.e. wrongful restraint, voluntarily causing hurt and criminal intimidation, with threat being to cause death, grievous hurt etc.

6. On appearance of the accused, copies of case documents were furnished to him in compliance under section 207, Code of Criminal Procedure, 1973. The accused was thereafter examined under sec. 239, Code of Criminal Procedure, read over and explained the charges framed against them for the offences under sections 341, 323 and 506 of the Indian Penal Code, 1860, to which they pleaded not guilty and claimed to be tried.

7. During the course of trial, the prosecution has gotten examined PW1 to PW3 and got marked Exs. P1 to P4. Ld. APP gave up LW4-Sri Abdul Wheed and LW5-Sri T. Sridhar. After the completion of the

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prosecution evidence, the accused was examined under section 313 of the Code for the incriminating material found against him.

8. Heard both sides and perused the record. The following points arise for the determination of this Court:

- (i) Whether the prosecution has been able to prove beyond reasonable doubt, the charge against the accused, under section 341 of the Indian Penal Code, 1860?
- (ii) Whether the prosecution has been able to prove beyond reasonable doubt, the charge against the accused, under section 323 of the Indian Penal Code, 1860?
- (iii) Whether the prosecution has been able to prove beyond reasonable doubt, the charge against the accused, under section 506 of the Indian Penal Code, 1860?
- (iv) To what result?

Points (i) and (ii):

9. Since the evidence with regard to these two points being inextricably interlinked, it would be beneficial to deal with both of them together.

10. PW1 is the primary and in fact the only witness on the question of the alleged wrongful confinement as also the assault upon him by the accused persons and deposes as follows: On 07.09.2015, at about 20:05 hours, he received a phone call from PW2, asking him to meet him. He went to the back side of VRK silks, near the house of PW2, where the accused persons and PW2 were waiting. The accused persons took him into the house of PW2 and started attacking him. First, accused no. 1 attacked him and then accused no. 2 joined him, while PW2 remained as a mute spectator. Accused persons continued the assault for 15 minutes and used abusive language. Even after he came out of the house, they continued the assault, from the cellar of the house, till VRK silks. Only when the public intervened, the accused persons stopped. They both caught hold of his neck and threatened to kill him if he remained in Hyderabad. He has then deposed that in May 2017, he gave Ex. P1 report. He has then also deposed that the delay in lodging the report was due to the reason that he was afraid of the accused persons. He has then gone on to depose as to the alleged transactions between himself, the accused persons and another person, stating that the accused persons employed him as a manager, when they began a sand business in 2015, at Bhadrachalam, that he got them introduced to a senior known to him, that he asked for an incentive for the commission, for introduction of the said person but they did not give him the

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same and that it for this reason, that the they assaulted him. In his cross-examination, he has admitted that he has not filed any document to show that he worked in PARAS company and that he also did not produce any appointment letter to show that he was appointed as a manager for a salary of ₹ 40,000/-. He then also admitted that he did give any document to show that there was amalgamation of the two companies as claimed by him. He has also admitted that he did not have any monetary dispute but that he rather had monetary disputes with Mr. Srikar. He has also admitted that he did not give any written notice to the accused persons concerning the recovery of the amount. He has also admitted the area mentioned, VRK Silka near JNTU, where the alleged assault occurred, is generally crowded. He has also admitted that even after the alleged incident, he was in the city for 3 or 4 days.

11. This is the summary of the evidence of PW1. PW2, the only other eye-witness to the incident, has turned hostile and has not supported the version of the prosecution. Ordinarily, the evidence of the victim in a case of assault itself is to be given greater credence and cannot be brushed aside only because there are no other witnesses who have support him. However, this is a case, where there are substantial problems with the testimony of the evidence of the victim i.e. PW1. At the first place, the allegations are general and omnibus. He states that accused no. 1 attacked him first and accused no. 2 joined in later. However, there is no specific and proper allegation to show as to on which body part and how, these assaults were i.e. whether only by hands or legs etc. of the accused persons or by using any other sort of weapon such as a stick or rock etc. There is no detail on this aspect. Furthermore, there is a substantial contradiction between Ex. P1, the report, which was marked through PW1 and his version in the chief-examination inasmuch as Ex. P1 states that accused no. 1 called him, through the phone number of another gang member and asked him to come near VRK silks near JNTU. This is also the version of the prosecution from the charge-sheet. In the chief-examination instead states that it was PW2 who called him. It is interesting to note that PW2, the only other witness to this alleged incident examined other than PW1 himself, has turned hostile and has denied even knowing the accused persons. Furthermore, as per Ex. P1 and the charge-sheet, the assault occurred on the road. However, as per the chief-examination of PW1, the assault actually commenced inside the house of PW2. Then there is the fact that PW1 admitted that neither he nor PW2 called police through helpline number 100, in order to get help at the time. Added to this is the fact that there is a huge inordinate delay in reporting the matter to the police. While the incident is alleged to have occurred on 07.09.2015, Ex. P1 report was only lodged on 11.10.2017 i.e.

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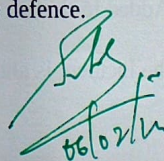
more than 2 years after the alleged incident. In addition to this, the type of assault that PW1 tries to describe to us in chief-examination is a sustained assault upon his body by two persons brutally for quite some time, along the way, even on the road. This would have attracted some public attention. The place where the incident occurred allegedly is usually crowded, as admitted by PW1 himself, in his cross-examination. While the crowd can be expected to be thin, because of the late hours of the alleged assault, this place is only at a short distance from the police station. As such, it does not really appear to be plausible that such an assault can happen without sufficient witnesses being there to actually see it. None of these witnesses were examined. Only PW2, in whose house, PW1 alleges in his deposition, the assault began, was examined. This witness as already noted, turned hostile. Further lies the fact that the kind of assault that is alleged by PW1 to have occurred is sure to leave some injuries if not substantial ones, for which a person would have to take medical treatment. It is clear that the report having been lodged more than two years after the incident, no such treatment was given on the reference by police. However, the witness himself would have undertaken some or the other treatment for the same, in which case, the medical records would have been available with the witness himself if not with the police. No such medical records were produced, either before the police and certainly not before the court.

12. Furthermore, no evidence has been produced to show any of the financial transactions between PW1 and the accused persons and said Mr. Srikar, which have allegedly furnished the motives for this entire alleged assault. As admitted by PW1 himself, there is no document to show that he was ever employed as a manager. There is not even details of the alleged merger of companies. There is no document to show that there was ever any such transaction, except for pure bald allegations and imputations in the chief-examination itself.

13. All these facts and circumstances, make the prosecution version extremely doubtful. The prosecution has of course, gotten examined the investigating officer himself also, as PW3. But he can only depose as the investigating process. He cannot and indeed has not ventured to depose anything about the facts constituting the offence itself. As such, it appears to the court, that the prosecution has failed to prove beyond reasonable doubt, the charges against the accused persons, for the offences under sections 341, 323 and 506 of IPC.

14. Hence, points (i) to (iii) are answered against the prosecution and in favour of the defence.

Point (iv):



15. In the result, accused is found not guilty for charge framed against him for the the offence under section 341 of the Indian Penal Code, 1860 and is therefore, acquitted under section 248(1) of the Code of Criminal Procedure, 1973. Further the accused is also found not guilty for the charge framed against him for the offence under section 323 of the Indian Penal Code, 1860 and is therefore, acquitted under section 248(1) of the Code of Criminal Procedure, 1973. Further the accused is also found not guilty for the charge framed against him for the offence under section 506 of the Indian Penal Code, 1860 and is therefore, acquitted under section 248(1) of the Code of Criminal Procedure, 1973. Sureties and bail bonds if any, shall stand discharged.

Typed by me, corrected and pronounced by me in open court on this the 06th day of February 2024.

XV ADDL. METROPOLITAN MAGISTRATE
MEDCHAL-MALKAJGIRI DISTRICT
AT KUKATPALLY

:: Appendix of evidence::

APPENDIX OF EVIDENCE

Witnesses examined for

Prosecution:		Defence:
PW1	: Chodavarapu Srinivas/Complainant/Victim	None
PW2	: Vennela Gopala Krishna/Eyewitness	
PW3	: D. Mahesh/Investigating officer	

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::Exhibits marked for::

Prosecution:		Defence:
Ex.P1	: Report	None
Ex.P2	: FIR	
Ex.P3	: Scene of offence panchnama	
Ex.P4	: Rough Sketch	

::Material objects marked for::

-NIL-

XV ADDL. METROPOLITAN MAGISTRATE
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