

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE,
VISAKHAPATNAM**

Present:-Sri M. Pradeep Kumar,
Chief Judicial Magistrate,
Visakhapatnam

Monday, this the 4th day of November, 2024.

C.C. No.7182/2022

Between :

State rep. by the Sub-Inspector of Police,
Arilova Police Station, Visakhapatnam City.

....Complainant

And :

Yeddu Demudu @ Raju, S/o Apparao, Age 31 years, Caste by SC (Mala), R/o D.No.8-148/1, New Shanthi Nagar, Arilova, Visakhapatnam City.

....Accused

This case is coming on 29.10.2024 for final hearing before me in the presence of learned Asst. Public Prosecutor for the State and of Sri B.Murali, Advocate for the Accused and after hearing the arguments on both sides and having stood over for consideration till this day, this court delivered the following :-

J U D G M E N T

The Sub-Inspector of Police, Arilova Police Station, Visakhapatnam City filed charge sheet in Cr.No.387/2022 against the Accused for the offence punishable U/Sec.353 of IPC.

2. The case of the prosecution in brief is that on 22.09.2022 at 07.30 P.M., while LW1- Palavalasa Suresh, Police Constable, Arilova Police Station, Visakhapatnam was on duty, some passers-by reported that one person who is in drunken state was obstructing the flow of traffic vehicles at main road opposite Bhakta Anjaneyaswamy Sweets and Bakery shop, Arilova, Visakhapatnam, then LW1- Palavalasa Suresh informed the same to

LW2 – B.Anil Kumar, Sub-Inspector of police, Arilova Police Station, Visakhapatnam and both of them went there and tried to resist the Accused for which he assaulted on them by pushing them with hands with an intention to deter them from discharging their duties i.e. to clear the traffic obstruction, then LW1- Palavalasa Suresh and LW2 – B.Anil Kumar captured the Accused with great difficulty and took him to Police Station and conducted breath analyzer test, upon which his count was found be around 907.4/100 status. The Accused created terror in the minds of public by obstructing the flow of traffic vehicles and assaulted on them with hands with an intent to deter them from discharging their duty.

(b) Basing on the report of LW1 – Palavalasa Suresh, LW6-Ch.Suryanarayana, Sub-Inspector of Police, Arilova police station registered a case in Cr.No.387/2022 for the offence punishable U/Sec. 353 of IPC and took up the investigation. During the course of investigation, LW6-Ch.Suryanarayana visited the scene of offence, prepared the rough sketch of the scene of offence, examined and recorded the statements of L.W.1 – Palavalasa Suresh, L.W.2 – B.Anil Kumar, LW3 – Mulaga Rajani, L.W.4 – Chokkakula Satyanarayana and LW5 – Yerra Hemanth and LW6-Ch.Suryanarayana issued Sec.41-A of Cr.P.C., notice to the Accused on 23.09.2022. After completion of the investigation, he filed charge sheet against the Accused. Hence, the charge.

3. Cognizance was taken by this court for the offence punishable U/Sec. 353 of IPC against the Accused.

4. On appearance of the Accused, the copies of documents as contemplated U/Sec. 207 Cr.P.C were furnished to them.

5. On appearance of the Accused, this Court read over and explained the substance of the accusation made out for the offence punishable U/Sec.353 of IPC against the Accused by examining him U/Sec.251 of Cr.PC in Telugu language, for which he pleaded not guilty and claimed to be tried.

6. In pursuance of the case of the prosecution, the prosecution has examined PWs.1 to 6 and got marked Exs.P.1 and P2.

7. After the closure of the prosecution side evidence, the Accused was examined U/Sec.313 Cr.P.C. and the incriminating material spelt out by the prosecution witnesses was put to him, he denied the same and reported no defence evidence on his behalf.

8. Heard both sides.

(a) The learned Assistant Public Prosecutor argued before this Court that the acts of the Accused are clearly established from the evidence of PW1 to PW6 and Ex.P1 and Ex.P2. He further argued that all the prosecution witnesses supported and corroborated the prosecution case and hence, the Accused is liable for conviction.

(b) Per contra, the learned defence counsel for the Accused argued before this court that the Accused is innocent and never committed the alleged offence. He further argued that only to threaten the Accused, this false case was foisted against the Accused. He further argued that the Accused is no way concerned to this case and also no person was examined by the prosecution who gave information to the Police. He further argued that all the prosecution witnesses are interested witnesses and hence, their

evidence is not at all believable. Therefore, the Accused is entitled for acquittal.

9. *Now the point that arises for determination is:*

“Whether the prosecution has proved the guilt of the Accused for the offence punishable U/Sec.353 of IPC beyond all reasonable doubt?”

10. POINT :-

To prove the offence punishable U/Sec.353 IPC, the prosecution has to establish that the Accused assaulted or used criminal force to PW1 being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter him from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by him to the lawful discharge of his duty as such public servant.

11. Perused the record. Out of six list of witnesses, the prosecution got examined six list of witnesses. In the present case on hand, PW1 is the Police Constable, PW2 to PW4 are the eye witnesses to the incident, PW5 is the Sub-Inspector of Police and PW6 is the Investigating Officer in this case.

12. PW1 who is Police constable in Anandapuram Police Station and the then Constable in Arilova P.S., Visakhapatnam deposed before this Court in his chief examination that on 22.09.2022 while himself and S.I/Anil Kumar were on duty, some persons approached the police station and complained that one person in a drunken condition was causing obstruction to the traffic in front of the police station, immediately both of them proceeded to the

scene for clearing the traffic, however the said person in turn pushed them behind causing obstruction to them from discharging their official duty, they some how managed to bring him to the police station and conducted breath analyzer test upon which, his count was found be around 907.4/100 status, on enquiry the said person disclosed his identity as Yeddu Demudu, after ascertaining his particulars and as per the instructions of their higher officials, he lodged report (Ex.P1) seeking necessary action against the Accused, Police examined him and recorded his statement, he identified the Accused present in the court as the same person who caused obstruction to them in discharging their official duties in a drunken condition.

During cross-examination, PW1 denied the suggestion put by the learned defence counsel that the Accused never consumed any alcohol at the relevant point of time as alleged and he never caused any obstruction to them in discharging their official duties.

13. PW2 deposed that on 22.09.2022 at about 7.30 P.M., one person by name Yeddu Demudu consumed alcohol and he was stopping the traffic on the road and he used to scold whoever questioned him, thereafter, the police came to that place and cleared the traffic and took the said Demudu and kept him aside, the Accused was the person who used to scold whoever questioned him and he was Yeddu Demudu.

During his cross-examination, PW2 denied the suggestion put by the learned defence counsel that he never saw the Accused and he was seeing the Accused for the first time that day only and he did not see the Accused stopping the traffic and he did not see the alleged incident and he was deposing false as per the instructions given to him by the police.

14. PW3 deposed that on 22.09.2022 at about 07.30 P.M, the Accused who was present in this court stopped the traffic by keeping a board

in front of Bakthanjaneya sweet shop, the shop which is a 3rd shop from her shop, the general public questioned the Accused regarding his stoppage of traffic, for which the Accused scolded them and threatened them that he will beat them, thereafter, the police came to the scene of offence and taken away the Accused from that place, the police examined her and recorded her statement.

During cross-examination, PW3 admitted that the said shops are in the jurisdiction of Arilova police station. She denied the suggestion put by the learned defence counsel that the alleged incident did not take place and under the pressure and influence of police, she was deposing false and she never saw the Accused earlier and she was seeing the Accused for the first time that day only.

15. PW4 deposed that on 22.09.2022 at about 07.30 P.M., the Accused kept one electrician board in the middle of the road and caused obstruction to the traffic i.e., in front of his shop, thereafter, one altercation took place, after some time, the police came to that place and cleared the traffic and took away the Accused, the police examined him and recorded his statement.

During cross-examination, PW4 deposed that the scene of offence is very much visible from the Arilova Police Station. He denied the suggestion put by the learned defence counsel that the alleged incident did not take place and the police threatened him that they will take action against him if he do not give his evidence in their favour, for which he was deposing false and he used to give his evidence in favour of police regularly in several cases and intentionally, he supported the police under the influence of police.

16. PW5/Baruku Anil Kumar, SI of Police, Mandasa P.S, Srikakulam District and the then SI of Police, Arilova P.S, Visakhapatnam City deposed

that on 22.09.2022 at about 8.15 a.m., one person by name Yeddu Demudu (Accused) stopped the traffic in front of the police station and he was in intoxication state at that time, then, he along with his staff went to the said place to stop the Accused and to control him, then, the Accused pushed him and tried to skulk away and moved to some distance, then, they chased him and caught the Accused, then, they brought the Accused to the police station and conducted test to the Accused with breath analyzer, the result of breath analyzer was 907.4/100 ml., thereafter, they handed over the Accused to another SI of Police Ch.Surya Narayana (L.W6) and then, P.W1 lodged his report before the said L.W.6, the police examined him and recorded his statement.

During cross-examination, PW5 denied the suggestion put by the learned defence counsel that the alleged incident did not take place and the Accused was not in intoxication state and they falsely implicated the Accused in this case and in general, no ordinary prudent man will stop the traffic and behave abnormally in front of any police station.

17. PW6/Ch.Suryanarayana, S.I of Police, Cyber Crimes Police Station, Visakhapatnam and the then S.I of Police, Arilova Police Station, Visakhapatnam deposed before this Court in his chief examination that on 22.09.2022 at about 09.00 P.M while he was in the police station, PW1 came to the police station and lodged his report (Ex.P1) before him, he registered the same as a case in Cr.No.387/2022 of Arilova Police Station for the offence punishable U/Sec.353 of IPC and issued F.I.R. (Ex.P2), he forwarded Ex.P2 and its copies to all the concerned authorities.

PW6 further deposed that he took up investigation in this case, PW5 accompanied PW1 to the police station, he examined and recorded the statements of PW1 and PW5 in the police station, thereafter, he along with PW1 proceeded to scene of offence situated near Bakthanjaneyaswamy

sweet shop, Arilova, Visakhapatnam, at that place, he secured the presence of PW2 to PW4 and examined and recorded their statements and on 23.09.2022, he issued notice to the Accused who was present in this court U/ Sec.41-A of CrPC., and after completion of investigation, he filed charge sheet.

During cross-examination, PW6 denied the suggestion put by the learned defence counsel that the Accused did not commit the alleged offence and the Accused was falsely implicated in this case and he examined only the interested witnesses relating to this case and wantonly PW2 to PW5 were cited as witnesses and the Accused is no way related to this case.

18. As this is a case punishable U/Sec.353 of IPC, the prosecution has to establish that the Accused obstructed PW1 in discharging his official duties and thereby, P.W.1 did not discharge his official duties.

19. This court observed that the prosecution case is that the Accused was causing disturbance to the traffic and information was given to the Police and basing on which, PW1 went to the Accused. In this aspect, the prosecution did not examine any independent person who gave information to the Police. Moreover, the prosecution case is very much silent about the person who gave information to the police. Moreover, this court did not understand why the Investigating Officer did not register the case basing on the oral information given by some independent witness about the Accused stopping and causing disturbance to the traffic.

20. Moreover, this Court observed that the scene of offence is very much nearer to the Arilova Police Station, the same is not at all disputed by the prosecution. The evidence of PW2 speaks that the Accused was stopping the traffic and was scolding whoever questions him. Whereas, PW3

speaks that the Accused kept board and stopped the traffic. Whereas, PW4 evidence speaks that the Accused kept electrician board in the middle of the road and caused obstruction to the traffic and one altercation took place.

21. This Court observed that the evidence of PW2 to PW4 who are independent witnesses, speaks in different lines and also contradicting to each other about the keeping of board by the Accused. Hence, this Court is of the opinion that non-examining the person who gave first information to the Police is a fatal to the case of the prosecution. Moreover, this court observed that the prosecution is very much silent and also PW1 evidence is also very much silent about the duties which were obstructed for PW1 and also what duties PW1 did not discharge. Hence, this Court is of the opinion that the prosecution failed to establish from the evidence of PW1 about the duties which PW1 suffered to discharge.

22. This Court observed that the evidence of PW5 speaks that he along with his staff went to the scene of offence and the Accused pushed him and tried to skulk away and moved for some distance and then they chased him and caught him and brought to the Police Station. But PW1 evidence speaks only that the Accused pushed them behind causing obstruction to them in discharging their official duties and they some how managed to bring him to the Police Station. Hence, there is a contradiction between the evidence of PW1 and PW5 regarding the overt acts of the Accused i.e. pushing the police and also trying to skulk away and about the police catching the Accused. Hence, basing on these contradictions, this Court is in doubt about the Accused causing obstruction to PW1 in discharging his official duties.

23. This Court observed that the evidence of PW6 is only relating to the registration of the case, issuing FIR, issuing notice to the Accused U/Sec.41-A, Cr.P.C., and examining the witnesses and filing charge sheet. Hence, this Court is of the opinion that the evidence of PW6 is only relating to the investigation process and it does not help in coming to opinion about the accusation of the Accused.

24. From the above discussion, this court holds that the prosecution failed to prove the guilt of the Accused beyond reasonable doubt and the benefit of doubt should go in favour of the Accused. As such, the Accused is entitled for acquittal.

25. In the result, the Accused is found not guilty for the offence punishable U/Sec.353 of IPC and accordingly, the Accused is acquitted U/Sec.255 (1) of Cr.P.C. The Accused is set at liberty forthwith in the present case. The bail bonds of the Accused shall be in force for a period of six months from the date of this Judgment U/Sec. 437-A, Cr.P.C. No property order is passed, as there is no property in this case.

Dictated to the Grade-I Stenographer, transcribed by her, corrected and pronounced by me in the open court, this the 4th day of November, 2024.

Sd/- M.Pradeep Kumar,
CHIEF JUDICIAL MAGISTRATE,
VISAKHAPATNAM

APPENDIX OF EVIDENCE

WITNESSES EXAMINED

FOR PROSECUTION

P.W.1: P.Valasa Suresh
P.W.2: Mulaga Rajani
P.W.3: Chokkakula Satyanarayana
P.W.4: Yerra Hemanth

FOR DEFENCE

- None –

P.W.5: Baruku Anil Kumar

P.W.6: Ch.Suryanarayana

DOCUMENTS MARKED

FOR PROSECUTION

Ex.P1: Report of PW1, Dt.22.09.2022

Ex.P2: FIR in Cr.No.387/2022 of Arilova police station

FOR DEFENCE:

- NIL-

MATERIAL OBJECTS MARKED:

- NIL -

Sd/- M.Pradeep Kumar,
CHIEF JUDICIAL MAGISTRATE,
VISAKHAPATNAM

CALENDER AND JUDGMENT

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE,
VISAKHAPATNAM

CALENDER CASE NO.7182/2022

(Cr.No.387/2022 of Arilova Police Station, Visakhapatnam city)

Date of offence	22.09.2022
Date of report or complaint	22.09.2022
Date of apprehension of the accused	22.09.2022
Date of commencement of trial	04.03.2024
Date of close of trial	25.10.2024
Date of sentence or order	04.11.2024
Accused is in Jail/Bail	On Bail
Explanation of delay or remarks	Due to non production of witnesses
Name of the Complainant	State rep. by the Sub-Inspector of Police, Arilova Police Station, Visakhapatnam City.
Name of the accused	Yeddu Demudu @ Raju , S/o Apparao, Age 31 years, Caste by SC (Mala), R/o D.No.8-148/1, New Shanthi Nagar, Arilova, Visakhapatnam City.
Offences	U/Sec.353 of IPC
Finding	Accused is found not guilty
Sentence	In the result, the Accused is found not guilty for the offence punishable U/Sec.353 of IPC and accordingly, the Accused is acquitted U/Sec.255 (1) of Cr.P.C. The Accused is set at liberty forthwith in the present case. The bail bonds of

	the Accused shall be in force for a period of six months from the date of this Judgment U/Sec. 437-A, Cr.P.C. No property order is passed, as there is no property in this case.
--	--

Sd/- M.Pradeep Kumar,
Chief Judicial Magistrate,
Visakhapatnam.