

IN THE COURT OF THE II ADDL. CHIEF METROPOLITAN MAGISTRATE , HYDERABAD.

Present : Sri.K.V.Chandrashekar Rao.
II Addl. Chief Metropolitan Magistrate,
Hyderabad.

Dated Saturday this the 15th day of October, 2022.

C.C. No.427 of 2018

Between:

State through,
The Sub Inspector of Police,
Abids Road Police Station,
Hyderabad.

....Complainant.

And

A1) Srinivas Reddy, S/o.Late S.Bheem Reddy,
Aged 39 years, Occ: Pvt.Employee,
R/o.H.No.6-1-128/A, Old CIB Qarters,
Khairatabad, Hyderabad.

A2) Rajeev Raju, S/o.George Raju
Aged 30 years, Occ: Doctor,
R/o. H.No.34-131/3A,
Sulanki Residency, Bharani Colony,
Defence Colony, Sainikpuri,
Medchal District.

A3) George Raju, S/o. Mathew,
Aged 60 years, Occ: Pastor,
R/o. H.No.34-131/3A, Sulanki Residency,
Bharani colony, Defence Colony,
Sainikpuri, Medchal District.

.... Accused.

This case is coming on dt.12-10-2022 before me for final hearing in the presence of Public Prosecutor for the complainant and of Sri.P. Srikanth - Counsel for the Accused Nos.1 to 3 and upon perusing the material on record, the Court delivered the following:

J U D G M E N T

The Sub-Inspector of Police, PS Abids Road filed charge sheet in Crime No.28/2018 against Accused Nos.1 to 3 for the offences punishable under Section 506 & 509 r/w 34 of IPC.

2 The brief facts of the case are that LW-1/Defacto complainant – Smt. Bhavana Reddy lodged a report stating that on dt.10-02-2018, at 02.45pm, at Seventh Day Church compound, she was attacked by a group of people lead by Mr.Sinivas Reddy herein A1, his wife Joyce, a church leader Mr.George Raju herein A3 and his son Mr.Rajeev Raju A2. They pushed her and used filthy words. A1 shouted on her and forcefully pushed her and A2 used bad words and touched with pointing finger and said “Yedavadana and niyamma” and A1 abused her as bitch and bastard and she was thrown down by a group. Therefore, she requested to take necessary action against them.

3. Basing on the report of LW-1, LW-7 SI of police registered a case Cr. No.28 of 2018, for the offences under Sections 323, 506 & 509 of IPC and took up the investigation. During the course of investigation, LW-7 examined and recorded her statement. LW-7 visited the scene of offence observation panchanama cum rough sketch in the the presence of PW-3 and LW-2 – A.Venkateshwarlu and also verified CCTV footages at the scene of offence and recorded the said incident in CD with the assistance of LW-6 as material evidence. On dt.3-4-2018, LW-7 SI of police issued notices U/Sec.41(A) Cr.P.C, on A1 to A3 instructed them to appear before him for investigation, but they did not give any reply to the notice. AS per the witnesses and evidence available on record, Sec.323 of IPC is deleted from existing sections. On completion of investigation, LW-7 SI of police filed charge sheet against A-1 to A3, for the offence U/Sec.506 & 509 r/w 34 of IPC.

5. This Court has taken cognizance of the offence under Section 506 & 509 r/w 34 of IPC against Accused Nos.1 to 3. On appearance of accused, copies of documents as contemplated under Section 207 of the Code of Criminal Procedure, 1973 were furnished to them.

6. Accused Nos.1 to 3 were examined under Section 251 of Cr.P.C. The substance of accusation levelled against them, for the offences U/Sec. 506 & 509 r/w 34 of IPC was read over and explained to the accused in their vernacular language. They pleaded not guilty and claimed to be tried.

7. In order to establish its case, prosecution has examined PWs-1 to 4 and got marked Exs.P1 to P7. Evidence of LW-2 – Sri.A.Venkateshwarulu was closed, as his whereabouts are not known. Evidence of LW-4 – Charles.D and LW-5 D.Ashby Raju was closed, as the summons were served through whatsapp but not attended the court.

8. After closure of the prosecution evidence, Accused Nos.1 to 3 were examined under Section 313 of Cr.P.C., with regard to the incriminating material appearing against them, for which, they submitted all such evidence is false and reported no defence.

9. Heard both sides. Perused the record.

10. **Now the points that arises for determination is**____
“Whether prosecution has brought home the guilt of Accused Nos. 1 & 2 for the offences under Section 506 & 509 r/w 34 of IPC beyond all reasonable doubt?”

11. **Point - 1:** In order to establish the case, as already noted, prosecution examined PW-1 to PW-4 and got marked Ex.P1 to Ex.P7 PW-1 is the defacto complainant. PW-2 is the panch witness for scene of offence observation cum rough sketch panchanama. PW-3 is the Crime Scene officer (Clues team), who collected footage of scene of offence from CCTV Cameras. PW-4 is the investigating officer,, who filed charge sheet.

12. Coming to the documentary evidence, Ex.P1 is the complaint lodged by PW-1. Ex.P2 is signature of PW-2 on observation panchanama. Ex.P3 is signature of PW-2 on rough sketch. Ex.P4 is FIR. Ex.P5 is scene observation panchanama. Ex.P6 rough sketch. Ex.P7 is CCTV Footage in CD.

13. PW-1, who is the defacto-complainant stated that on dt.10-2-2018, at about 2.45pm, while she was attending prayer in Seventh Day Adventist Church, Abids, there she was attacked by a group headed by A-1 and his wife Joyce alongwith A2 & A3. All the accused started pushing her at the church premises near steps, wherein A-1 started pushing her by abusing in filthy language, A2 pointing his finger touched her left shoulder and also abused her in abusive words, ie, "Yedavadana" and after that A-1 also stated that she is bitch and bastard. Thereafter, all the accused started pushing her while she was standing alongwith her two sons who were shocked when they attacked and attempted to beat her and threatened her by saying not to attend the church and behaved indecently by uttering filthy language, which she cannot reveal. She further stated that the accused told her that she has taken money from the administration of the church, as such, she is supporting the church administration, as there is a slight dispute in the church. Accused created such a situation that no body should talk to her. Thereafter, she approached the elders of the church but in turn they advised to lodge a report in PS. Ex.P1 is the report lodged by her.

14. In her cross-examination, she stated that regularly, there are 100 to 150 members attend the church and also there are some civil disputes with regard to the above said church and that one John Victor among others advised her to approach police and the said fact goes to show that at the instance of one John Victor Ex.P1

was lodged. She denied the suggestion that John Victor and others including herself were trying to sell the church land to private persons when the accused opposed the same, she lodged Ex.P1 against the accused. Counsel for accused submitted that though PS Abids is five minutes from the place of incident, but Ex.P1 was lodged after four hours. On this aspect, PW-1 stated that delay of 4 hours is due to she waited for apology from the accused and when they refused to say apology finally she lodged Ex.P1.

15. Further there is a contradiction in the evidence of PW-1 that she stated before the police that A-2 pointed his finger and touched her left shoulder, which is an improvement in her evidence. On perusal of her statement given to the police, there is only pointing of A-2, but there is no particularly body touched by A-2 with his finger. She further denied the suggestion that she intentionally created galata in the church on every Sunday. She also stated that one pastor by name, Shyam Raj was present at the time of incident and he is not examined by the police and it is clear that Pastor Shyam Raj lodged report against PW1 due to her adamant behaviour for using abusive language against A-2 and her mother and the same was denied by PW-1. She further admitted in her cross-examination that she do not remember whether police called her for recording her statement after lodging Ex.P1 report, as such, the evidence of PW-1 becomes doubtful. As there are already disputes are going on between church management when they are trying to sell the land of church and when the accused raised objection for selling the land, the present case is got lodged by PW-1 at the instance of church administration.

16. PW-2 who is stood as panch witness to the observation panchanama and rough sketch did not support the case of the prosecution and stated that police obtained

his signature on some written papers without reading over its contents. The witness identified his signature on the observation panchanama, which is Ex.P2 and Ex.P3 is signature on the rough sketch.

17. PW-3, who has collected CCTV footage from the place of incident stated that on dt.11-2-2018, he received information from PW-4 /Investigating Officer to visit the scene of offence at 7th Day Adventist Church, Abids. There, he alongwith PW-4 observed CCTV cameras available at the Church and with a permission of church pastor, they have collected CCTV footage and down loaded into the DVD and handed over to PW-4. On this aspect, counsel for defence contended that the said CCTV Footage cannot be looked into in the absence of non filing of Sec.65B certificate, as per Indian Evidence Act. As rightly pointed out by the defence counsel the said CCTV footage cannot be looked into, as Investigating Officer did not collect Sec.65B certificate to show that under whose custody the CCTV footages are there including from which system it was downloaded is completely absent to show that the particular person is the incharge of device for collecting the CCTV Footage.

18. PW-4 who is the investigating officer stated the similar facts as mentioned in the charge sheet and got marked Ex.P4 is FIR. Ex.P5 is scene observation panchanama. Ex.P6 is rough sketch and Ex.P7 is CCTV Footage in DVD. In his cross-examination he failed to give reasons about the three hours delay in lodging Ex.P1 report by PW-1. Similarly he admitted in his cross-examination that he did not collect original DVR of Ex.P7 and also that he did not file certificate U/Sec.65B of Indian Evidence Act. Apart from that prosecution failed to examine eye witnesses, as such only basing on the evidence of PW-1 conviction cannot be sustained as there are several major contradictions in the evidence of PW-1, as such, benefit of

doubt is extended to A-1 to A-3.

20. In view of the above discussion, prosecution failed to prove the guilt of the accused beyond all reasonable doubt. Accordingly point is answered.

21. In the result, Accused Nos.1 to 3 are found not guilty for the offence under Sec. 506 & 509 r/w 34 of IPC and they are acquitted under Sec. 255(1) of Cr.P.C. Bail bonds of Accused Nos.1 to 3 shall be in force for a period of 6 months from today as prescribed under Sec. 437-A of Cr.P.C.s

Dictated to the Stenographer Gr.II, transcribed by her corrected and pronounced by me in open court on this the 15th day of October, 2022.

II Addl. Chief Metropolitan Magistrate,
Hyderabad.

Appendix of Evidence
Witnesses Examined

For Prosecution:-

PW-1 : Smt.D.Bhavana Reddy, defacto-complainant
PW-2 : S.Raju, panch witness for panchanama & rough sketch
PW-3 : K.Raja Shekar, Crime Scene officer.
PW-4 : G.Saidulu/SI of police, IO

For Defence:

Nil.

Documents Marked

For Prosecution:-

Ex.P1 : Report lodged by PW-1.
Ex.P2 : Signature of PW-2 on Observation panchanama.
Ex.P3 : Signature of PW-2 on Rough Sketch
Ex.P4 : FIR.
Ex.P5 : Scene observation panchanama.
Ex.P6: : Rough Sketch.
Ex.P7: CCTV Footage CD

For Defence: .

Nil.

Material Objects Marked

- Nil.

**II Addl. Chief Metropolitan Magistrate,
Hyderabad.**