



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3547]

**TUESDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SRI JUSTICE K SURESH REDDY

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

**CRIMINAL APPEAL NOS. 272 of 2018, 273 of 2018, 274 of 2018, 314
of 2018, 469 of 2018, 496 of 2018, 597 of 2023, 622 of 2018, 847 of
2018 and 1946 of 2018**

CRIMINAL APPEAL NO: 272/2018

Between:

Shaik Abdul Wahid @ Wahid

...APPELLANT

AND

The State Of Andhra Pradesh Rep By Its Public
Prosecutor

...RESPONDENT

Counsel for the Appellant:

1. D KODANDARAMI REDDY

Counsel for the Respondent:

1. PUBLIC PROSECUTOR (AP)

CRIMINAL APPEAL NO: 273/2018

Between:

Shaik Saleem Basha @ shafi

...APPELLANT

AND

The State Of Andhra Pradesh

...RESPONDENT

Counsel for the Apellant:

1.MD SHARFUDDIN

Counsel for the Respodent:

1.PUBLIC PROSECUTOR (AP)

CRIMINAL APPEAL NO: 274/2018

Between:

Chelimi Kesava

...APELLANT

AND

The State Of Andhra Pradesh

...RESPONENT

Counsel for the Apellant:

1.MD SHARFUDDIN

Counsel for the Respodent:

1.PUBLIC PROSECUTOR (AP)

CRIMINAL APPEAL NO: 314/2018

Between:

Chellimi Venkatanarayana

...APELLANT

AND

The State Of Anhdra Pradesh

...RESPONENT

Counsel for the Apellant:

1.MD SHARFUDDIN

Counsel for the Respodent:

1.PUBLIC PROSECUTOR (AP)

CRIMINAL APPEAL NO: 469/2018

Between:

Maddineni Bayanna

...APELLANT

AND

The State Of A P

...RESPONENT

Counsel for the Apellant:

1.O MANOHER REDDY

Counsel for the Respodent:

1.PUBLIC PROSECUTOR (AP)

CRIMINAL APPEAL NO: 496/2018

Between:

Kasineni Gopal

...APELLANT

AND

The State Of Anhdra Pradesh and Others

...RESPONENT(S)

Counsel for the Appellant:

1.D KODANDARAMI REDDY

Counsel for the Respondent(S):

1.PUBLIC PROSECUTOR (AP)

CRIMINAL APPEAL NO: 597/2023

Between:

Sanivarapu Sekhar Reddy @ Sekhar Reddy

...APELLANT

AND

The State Of Andhra Pradesh

...RESPONENT

Counsel for the Apellant:

1.VENKATA SIVA NAGARAJ BONKURI

Counsel for the Respodent:

1.PUBLIC PROSECUTOR (AP)

CRIMINAL APPEAL NO: 622/2018

Between:

Vadde Venkateswarlu

...APELLANT

AND

The State Of A P

...RESPONENT

Counsel for the Apellant:

1.MD SHARFUDDIN

Counsel for the Respodent:

1.PUBLIC PROSECUTOR (AP)

CRIMINAL APPEAL NO: 847/2018

Between:

Nallabapineni Bharath

...APELLANT

AND

The State Of Ap

...RESPONENT

Counsel for the Apellant:

1.D KODANDARAMI REDDY

Counsel for the Respodent:

1.PUBLIC PROSECUTOR (AP)

CRIMINAL APPEAL NO: 1946/2018

Between:

Golla Harsha Teja

...APELLANT

AND

The State Of A P

...RESPONENT

Counsel for the Apellant:

1.D KODANDARAMI REDDY

Counsel for the Respodent:

1.PUBLIC PROSECUTOR (AP)

The Court made the following:

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

TUESDAY, THIS THE FOURTH DAY OF NOVEMBER

TWO THOUSAND AND TWENTY FIVE

SPECIAL DIVISION BENCH

PRESENT

THE HONOURABLE SRI JUSTICE K SURESH REDDY

and

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

**CRIMINAL APPEAL NOs.272 of 2018, 273 of 2018, 274 of 2018,
314 of 2018, 469 of 2018, 496 of 2018, 597 of 2023, 622 of 2018, 847
of 2018 and 1946 of 2018**

COMMON JUDGMENT: *(Per the Hon'ble Sri Justice K. Suresh Reddy)*

As all these appeals arise out of same Sessions Case, they are heard together and are being disposed of by way of this common judgment.

2. Accused Nos.2 to 11 in S.C.No.109 of 2015 on the file of the Court of I Additional Sessions Judge, Ananthapuram, are the appellants.

3. Accused No.5 is the appellant in CrI.A.No.272, accused No.2 is the appellant in CrI.A.No.273 of 2018, accused No.9 is the appellant in CrI.A.No.274 of 2018, accused No.10 is the appellant in CrI.A.No.314 of 2018, accused No.11 is the appellant in CrI.A.No.469 of 2018, accused

No.8 is the appellant in Crl.A.No.496 of 2018, accused No.3 is the appellant in Crl.A.No.597 of 2018, accused No.7 is the appellant in Crl.A.No.622 of 2018, accused No.4 is the appellant in Crl.A.No.847 of 2018 and accused No.6 is the appellant in Crl.A.No.1946 of 2028.

4. The appellants along with accused Nos.1, 12 and 13 were tried by the learned Additional Sessions Judge under the following charges:

The first charge was under Section 120-B I.P.C. against A1 to A13;

The second charge was under Section 148 I.P.C. against A1 to A13;

The third charge was under Section 364-A I.P.C. against A1 to A13;

The fourth charge was under Section 386 I.P.C. against A1 to A13;

The fifth charge was under Section 324 I.P.C. against A1 to A13;

The sixth charge was under Section 326 I.P.C. against A1 to A13;

The seventh charge was under Section 506 I.P.C. against A1 to A13; and

The last charge was under Section 25 (1B) (a) of the Arms Act, 1959 against A3, A5, A6, A8 and A11.

5. Substance of the charge is that accused No.1 having conspired with accused Nos.2 to 13 formed themselves into unlawful assembly, kidnapped one Nichenametla Prasad, P.W.7 on the night of 18.07.2014, demanded a ransom amount of Rs.1,00,00,000/- and took P.W.7 towards reserve forest area, in the said process, they caused injuries to P.W.7

with a knife and sticks and threatened him with dire consequences, thereby committed offences punishable under Sections 120-B, 148, 364-A, 386, 324, 326 and 506 of I.P.C. and Section 25 (1B)(a) of the Arms Act, 1959 (hereinafter referred to as 'the Arms Act').

6. After completion of the trial, learned Additional Sessions Judge convicted accused Nos.1 to 6 and 8 to 10 under Section 364-A I.P.C. and sentenced each one of them to undergo imprisonment for 'LIFE' and also to pay a fine of Rs.1,000/- each, in default to suffer Simple Imprisonment for three months. The learned Additional Sessions Judge further convicted accused Nos.1 to 6 and 8 to 10 under Section 386 I.P.C. and sentenced each one of them to undergo Rigorous Imprisonment for a period of five years and also to pay a fine of Rs.1,000/- each, in default to undergo Simple Imprisonment for three months. Learned Additional Sessions Judge also convicted accused Nos.1 to 6 and 8 to 10 under Section 120-B I.P.C., but no separate sentence was awarded. Learned Additional Sessions Judge further convicted accused Nos.1 to 4, 8 and 9 under Section 148 I.P.C. and sentenced them to undergo Rigorous Imprisonment for a period of two years and also to pay a fine of Rs.500/- each, in default to undergo Simple Imprisonment for three months. Learned Additional Sessions Judge further convicted accused Nos.1 to 4, 8 and 9 under Section 324 I.P.C. and sentenced them to undergo

Rigorous Imprisonment for a period of two years and also to pay a fine of Rs.500/- each, in default to undergo Simple Imprisonment for three months. The learned Additional Sessions Judge further convicted accused Nos.1 to 4, 8 and 9 under Section 326 of I.P.C. and sentenced them to undergo Rigorous Imprisonment for a period of seven years and also to pay a fine of Rs.1,000/- each, in default to undergo Simple Imprisonment for three months. The learned Sessions Judge further convicted accused Nos.1 to 4, 8 and 9 under Section 506 I.P.C. and sentenced them to undergo Rigorous Imprisonment for two years and also to pay a fine of Rs.500/- each, in default to undergo Simple Imprisonment for three months. The learned Additional Judge further convicted accused Nos.3, 5, 6, 8, 9 and 11 under Section 25 (1B) of the Arms Act and sentenced them to undergo Rigorous Imprisonment for three years and also to pay a fine of Rs.5000/- each, in default to suffer Simple Imprisonment for six months. The learned Additional Sessions Judge also convicted accused Nos.7 and 11 under Section 411 I.P.C. and sentenced them to undergo Rigorous Imprisonment for a period of two years and also to pay a fine of Rs.1,000/- each, in default to undergo Simple Imprisonment for two months. All the substantive sentences were directed to run concurrently. The learned Additional Sessions Judge acquitted accused Nos.12 and 13 of all the charges.

7. After conviction accused No.1 died and as such, no appeal was filed on his behalf.

8. Case of the prosecution, as per the evidence of prosecution witnesses, in brief, is as follows:

(i) Accused No.1 is a native of Proddutur town, Kadapa District. He is a habitual offender and was involved in several criminal cases in various Police Stations of Kadapa, Kurnool and Ananthapuram Districts. Accused Nos.2 to 11 are his associates, and accused Nos.12 and 13 are relatives of accused No.1.

(ii) P.W.7 is doing business in fertilizers under the name and style of Srinivasa Fertilizers at Narpala Town, Ananthapur District. P.W.1 is the wife of P.W.7, P.Ws.2 and 6 are the relatives of P.W.7. On 18.07.2014, P.W.7 and his wife went to their shop, and at about 7:00 pm, P.W.1 returned home. P.W.7 stayed in the shop. After going home, P.W.1 telephoned to P.W.7, who replied that he would come home within ten minutes. As P.W.7 did not return home even after half an hour, P.W.1 again called P.W.7. who, in turn, received the call and answered that he would return home and not to inform anyone. Thereafter, when P.W.1 made a phone call to P.W.7, it was switched off. P.W.1 came out of the house and saw a Tata Indica car at Peddamma Temple proceeding at

high speed. Three others also witnessed the same. P.W.1 was informed that her husband was forcibly taken away by some unknown persons in a car, while P.W.7 was coming in front of Peddamma Temple. At about 11:30 pm. P.W.1, went to the Narpala Police Station and gave a report. P.W.18 Assistant Sub-Inspector, Narpala Police Station received Ex.P1, report from P.W.1 and registered a case in crime No.104 of 2014 under Section 364 I.P.C. On 19.07.2014, P.W.18 visited the scene of offence at Peddamma Temple and recorded statements of P.Ws.3 to 5. Having received the information through P.W.18, the Circle Inspector, Itukapalli, P.W.21 took up investigation on 20.07.2014. On the same day, at about 10:10 pm, P.W.1 visited the Police Station and informed P.W.21 about the demand made by the kidnappers, to pay an amount of Rs.1,00,00,000/- (Rupees one crore only), for the release of P.W.7. She also stated that the kidnappers asked her to come to Reserve Forest situated in between Madugapalli and Maddipalli, Putur Mandal, about 6 Km towards Maddipalli village from Madugapalli village and wait for them along with money, near electricity pole. Having received the said information, P.W.21 prepared a plan and secured the presence of P.W.10, Village Revenue Officer and another. P.W.21 asked P.W.1 to secure cash and fill two bags along with newspapers and prepared a Mahazar, Ex.P6. The total cash of Rs.5,00,000/- was kept in two bags along with newspapers.

(iii) On the next day, P.W.21, along with his staff, formed into two groups and proceeded to the place indicated by the accused along with P.W.10 and others. P.Ws.2 and 6 carried two bags containing cash and proceeded by a motorcycle towards the scene of offence indicated by the accused. P.W.21 and his staff followed P.Ws.2 and 6. When they reached near the electrical pole, two persons came, received the bags and took P.Ws.2 and 6 to the place where P.W.7 was confined. P.W.21 and his staff followed them. After receiving the cash and after seeing P.W.7, P.W.21 raided the place in the presence of P.W.10. On seeing the Police, all the persons tried to run away, but P.W.21 and his staff caught hold of accused Nos.4 to 6 and 10. Accused No.4 was carrying one cash bag, accused No.5 was carrying another bag, accused No.6 was armed with daggers and accused No.10 was carrying a stick. Accused Nos.4 to 6 and 10 said to have confessed before P.W.21 about commission of offence. The cash bags, along with two knives and stick, were seized. P.W.21 seized the property under a panchanama, Ex.P7 in the presence of P.W.10 and another. P.W.21 returned to the Police Station and examined P.Ws.2, 6 and 7 and recorded their statements. Thereafter, P.W.21 sent P.W.7 to the Government Hospital, Ananthapuram, for treatment.

(iv) P.W.15, Civil Assistant Surgeon, Government General Hospital, Ananthapuram, examined P.W.7 and found the following injuries :

1. Healed abrasion of size 2 x 1 C.M over occiput
2. Loss of teeth on lower jaw
3. Healed multiple abrasions over back
4. Blunt injuries to both hands
5. Swelling of left foot.

He opined injuries Nos.1, 3, 4 and 5 are simple in nature and injury No.2 is grievous in nature. P.W.15 issued wound certificate, Ex.P16.

(v) On 27.07.2014, P.W.21 arrested accused Nos.2, 3, 7, 8 and 11, who said to have confessed the commission of offence. P.W.21 seized cell phone Celcon C607, a cash of Rs.40,000/-, which are marked as M.Os.39 and 40 to 43 respectively, from accused No.2; Tapancha, two live cartridges and one spent cartridge, a cash of Rs.40,000/- and Nokia C2 cell phone, M.Os.32, 33, 34 to 37 and 38 from accused No.3. He also seized an amount of Rs.20,000/-, T.V.S. Sports Motorcycle and dagger, M.Os.56, 57, 55 and 54 respectively from accused No.11. On 11.08.2014, at about 11:00 am, P.W.21 arrested accused No.1 and four others in the presence of P.Ws.10 and 12 at Bandlapalli cross, Narpala Mandal. He seized a Samsung mobile phone, cash of Rs.30,000/-, TATA

Indica car bearing No.AP-02/AT 2064 along with five hunting sickles and four cell phones, and a Scorpio vehicle from them.

(vi) P.W.16, JFMC conducted test identification parade on 23.08.2014 and on 12.09.2014. Test identification proceedings were marked as Exs.P17 and 18. P.W.21 sent material objects to RFSL for analysis. RFSL report is marked as Ex.P28. P.W.21 also obtained sanction order of the District Collector under Ex.P29 for prosecuting the accused under Section 25 (1B) of the Arms Act. After receiving the test identification proceedings and after receiving all the documents, P.W.21 filed charge sheet.

9. In support of its case, the prosecution examined P.Ws.1 to 23, marked Exs.P1 to P31 and exhibited M.Os.1 to 59.

10. P.Ws.3, 5, 11 to 14 did not support the prosecution, and they were declared as hostile.

11. When the accused were examined under Section 313 Cr.P.C., they denied the incriminating material appearing against them.

12. Accepting the evidence of P.Ws.1, 2, 6, 7, 10 and 21, learned Sessions Judge convicted the appellants as aforesaid.

13. Heard Sri D. Kodandarami Reddy, Sri Md. Sharfuddin, Sri O. Manohar Reddy and Sri Venkata Siva Nagaraju Bonkuri, learned counsels for the appellants and Sri Marri Venkata Ramana, learned Additional Public Prosecutor for the respondent-state.

14. We have carefully scrutinised the entire evidence on record.

15. The crucial witnesses in this case are, P.Ws.1, 2, 6 and 7. P.W.1 in her evidence stated that on 18.07.2014, she, along with her husband, P.W.7 went to the fertilizer shop and at about 7:00 p.m. and she returned home, whereas, P.W.7 stayed in the shop. At about 9:00 pm, P.W.1 telephoned to P.W.7, and he replied that he would return home within ten minutes. As P.W.7 did not return home, again P.W.1 called P.W.7, who answered the call and replied that he would be coming home and not to intimate anyone. Thereafter, as the phone of P.W.7 was switched off, P.W.1 came out of the house. P.W.1 found a Tata Indica car going away at a high speed, and she was informed that P.W.7 was kidnapped by some unknown persons near Peddamma Temple. P.W.1 further stated that at that time, her brother-in-law, by name Surya Narayana, P.W.6, and her mother-in-law were present at home. At about 11:30 pm, P.W.1, along with P.W.6, went to the Police Station and gave a report, Ex.P1. P.W.1 further stated in her evidence that about 1:00 am on 19.07.2014, she received a phone call from the mobile phone of P.W.7 and an

unknown person demanded her to arrange for an amount of Rs.1,00,00,000/-, failing which they would do away with the life of P.W.7. Said person also cautioned her not to inform the Police. P.W.1 further stated that she requested two or three days to pay the said money as she did not have ready cash. She further stated that she received another call at about 10:00 pm on 20.07.2014, enquiring about the arrangement of the demanded amount and informed her to bring the money to Madugupalli and Maddipalli forest. P.W.1 further stated in her evidence that she told them that she would send the amount through two persons. On the same day at about 10:30 pm, P.W.1, along with others, went to Narapala Police Station and informed about the demand made by the assailants. She further stated that P.W.21 prepared a plan to apprehend the accused and rescue P.W.7. P.W.21 collected a sum of Rs.5,00,000/- from P.Ws.1 and 2 and kept the said amount in two bags brought by P.W.21. He filled up the bag with newspapers and kept an amount of Rs.2,50,000/- on the top, in each bag. Panchanama was prepared under Ex.P6, for laying the trap. On the next day, PW1 came to know that the Police rescued P.W.7 and shifted him to the Government General Hospital, Ananthapuram, for treatment.

16. P.W.2, who is none other than a close relative of P.W.7, in his evidence has stated that on 21.07.2014, P.W.1 prepared panchanama,

Ex.P6, for laying a trap against the accused. He further stated in his evidence that on 21.07.2014, he, along with P.W.6 went to Maddipalli and Madugupalli forest by a motorcycle.

17. It is not out of place to state that P.W.6 is also closely related to P.W.7. After reaching the said place, accused Nos.4 and 5 opened the bags and counted the currency. At that time, P.W.21, along with mediator, P.W.10 and his staff, raided the place and apprehended accused Nos.4 to 6 and 10. He seized two bags under Ex.P7, panchanama in the presence of P.W.10. P.Ws.2 and 6 are the witnesses arranged by P.W.21 to lay trap against the accused. P.W.10 is V.R.O., who acted as mediator for the trap.

18. After arresting the accused Nos.4 to 6 and 10, they were brought to the Police Station and later were remanded to judicial custody. Subsequently, the remaining accused were also arrested.

19. P.W.7, the victim, in his evidence stated that on 18.07.2014, at about 9:30 pm, while he was returning home from his fertilizer shop, he found a car stationed at Peddamma Temple. He further stated that accused Nos.1 to 4, 8 and 9 dragged him into a car. Hearing his cries, P.Ws.4, 5 and another came to the spot and the car was driven with high speed towards Pulasunuthalapalli village. He further stated in his

evidence that he was kidnapped by six persons, who demanded an amount of Rs.1,00,00,000/-, and the accused beat him while proceeding towards the forest area. After reaching a distance, the car was stopped, and P.W.7 was taken to a hill area of Maddipalli and Madugupalli forest, Putlur Mandal. He further stated that he was threatened with knives and pistol. They telephoned his wife, P.W.1, through his mobile and demanded an amount of Rs.1,00,00,000/- otherwise they would kill P.W.7. P.W.7 further stated that he informed his wife, P.W.1, about the kidnapping. He further stated that he was detained in a hilly area for three nights and two days. P.W.7 further stated that on 21.07.2014 morning, P.Ws.2 and 6 brought an amount of Rs.5,00,000/- in two bags and thereafter, Police personnel along with P.W.10 raided the place and apprehended accused Nos.4 to 6 and 10. In his evidence, P.W.7 has stated that he could identify accused 1 to 11 in the Court hall.

20. Apart from the evidence of P.Ws.1, 2, 6 and 7, the prosecution is relying on the evidence of P.W.16, J.F.M.C. Ananthapuram, who conducted test identification parade. P.Ws.2, 6 and 7 are witnesses who participated in the test identification parade. In the test identification parade, P.W.2 identified accused No.4, alone. P.W.6 identified accused Nos.2, 10 and 11. P.W.7 identified accused Nos.2, 3, 4 and 9. Subsequently, P.W.7 identified accused No.1 also, who is no more.

Though P.W.7, in his evidence, stated that he could identify all the accused in the Court hall, in the test identification parade, he could identify only accused Nos.2, 3, 4 and 9. Though P.W.7, in his evidence, stated that only six persons kidnapped him, the prosecution implicated as many as 13 persons in the incident.

21. As seen from the entire material on record, the test identification proceedings are crucial in the present case.

22. P.W.7, who is the victim and who was with the accused for three nights and two days and who had an opportunity of identifying the accused, could identify only accused Nos.1, 2, 3, 4 and 9. As such, the remaining accused must have been falsely implicated.

23. Insofar as the demand of Rs.1,00,00,000/- is concerned, P.Ws.1 and 2, in their evidence, have stated that even before reporting to the Police at about 11:30 pm on 18.07.2014, P.W.1 received a phone call demanding ransom of Rs.1,00,00,000/-. But, they did not state the same in their report, Ex.P1. In Ex.P1, they expressed suspicion that P.W.7 must have been kidnapped either for money or for the sake of properties. Thereafter, P.Ws.1 and 2, in their evidence, have categorically stated that P.W.1 received a phone call at 1:00 am on 19.07.2014, but she did not approach the Police and inform them about the same. For the first

time, P.Ws.1 and 2 informed P.W.21 about the demand of Rs.1,00,00,000/- at about 10:30 pm on 20.07.2014. If really the accused demanded Rs.1,00,00,000/-, P.Ws.1 and 2 ought to have informed P.W.21 about the same either on 18.07.2014 or on 19.07.2014 or in the morning of 20.07.2014. P.Ws 1 and 2 kept quiet without informing the Police about the so-called demand made by the accused, from 11:30 pm on 18.07.2014, till 10:30 pm on 20.07.2014. Though F.I.R. was registered at about 11:30 pm on 18.07.2014, no investigation was conducted till 20.07.2014.

24. Though P.Ws.2 and 6 were members of the raid party, they could not identify many of the accused except accused Nos.4, 2, 10 and 11. P.W.6, in this evidence, has categorically stated that he could not identify any of the accused as similar-aged persons were paraded in the test identification parade.

25. Having scrutinized the entire evidence on record carefully, we do not doubt that the prosecution cooked up a story as if the accused kidnapped P.W.7 for ransom. If really, the accused kidnapped P.W.7 for ransom, they would not go to the extent of beating and causing injuries to P.W.7. Further, P.W.10, the so-called mediator, seems to be a stock witness. He is the mediator for laying trap, arrest of the accused on different dates and also for seizure of M.Os. from different accused.

P.W.10 was taken as a mediator for all practical purposes, and he is a stock mediator. P.W.10 also in his evidence, stated that he could not give any particulars as to which material object was recovered from which accused. As such, no reliance can be placed on his evidence. The only evidence available on the record is P.W.7, who identified accused Nos.2, 3, 4 and 9. Though P.W.7 stated that six persons kidnapped him, he went to the extent of identifying accused Nos.1 to 11 in the Court hall. As such P.W.7 also came up with an exaggerated version.

26. As already pointed out, the prosecution came up with an exaggerated version stating that the accused demanded a ransom of Rs.1,00,00,000/-, that too at a belated stage. As such, the so-called demand of Rs.1,00,00,000/- is an afterthought and no reliance can be placed on the same. As P.W.7 could identify accused Nos.2, 3, 4 and 9, in the test identification parade and also in the Court, they are liable for kidnap of P.W.7. Insofar as the nature of offence is concerned, as already pointed out, the so call demand made by the accused is a belated one and further the prosecution could not able to show any material as to which accused demanded Rs.1,00,00,000/- for releasing P.W.7. As such offence under Section 364-A I.P.C. has not been made out. But the evidence of P.W.7, coupled with the evidence of P.Ws.2 and 6 establishes the offence under Section 364 I.P.C. As such, we are

inclined to convict accused Nos.2, 3, 4 and 9 under Section 364 I.P.C. instead of Section 364-A I.P.C.

27. During the course of the hearing, we requested the learned Additional Public Prosecutor to get information from the Jail Authorities about the conduct of the accused and also to produce the nominal roll. Accordingly, the learned Additional Public Prosecutor produced nominal roll of all the accused. The nominal rolls and the instructions given by the jail authorities to the Additional Public Prosecutor would reveal that the conduct of the accused in the jail is satisfactory. We also found that some of the accused i.e. accused Nos.2, 4, 5 and 6 have completed their graduation and post-graduation while undergoing imprisonment. Further, they were selected to open air prison. We also find that all the accused except accused No.3, are aged between 24 to 28, at the time of commission of the offence.

28. In view of the above facts and circumstances of the case, as the conduct of the appellants in jail is satisfactory, this Court is inclined to take a lenient view, as it seems that they were reformed in jail while undergoing imprisonment.

29. Insofar as accused Nos.5, 6 to 8, 10 and 11 are concerned, even P.W.7 could not identify, and he also could not give particulars as to who

beat him. So far as recovery of weapons is concerned, as already pointed out, this Court is not inclined to place reliance on the evidence of so called mediator, P.W.10. As such accused Nos. 5, 6, 8, 10 and 11 and accused No.7 are entitled to be acquitted for the offence punishable under Sections 364-A, 386, 148, 324, 120-B, 326, 506, 411 I.P.C. and Section 25 (1B) of the Arms Act. Accordingly, they are acquitted of all the charges levelled against them. Even accused Nos 2, 3, 4 and 9 are also entitled to be acquitted for the offence under Section 386, 120-B, 148, 324, 326, 506 I.P.C. and Section 25 (1B) of the Arms Act.

30. In the result, Criminal Appeal Nos.272, 314, 469, 496, 622 and 1946 of 2018, are hereby allowed by setting aside the convictions and sentences recorded against the appellants/accused Nos.5, 10, 11, 8, 7 and 6, by the learned I Additional Sessions Judge, Ananthapuram, in Sessions Case No.109 of 2015, dated 24.01.2018, for the offences under Sections 364-A, 386, 148, 324, 120-B, 326, 506, 411 I.P.C. and Section 25 (1B) of the Arms Act. Accordingly they are acquitted of all the charges. Fine amount, if any, paid shall be refunded to them. Consequently, appellants/accused Nos.5, 10, 11, 8, 7 and 6 shall be set at liberty forthwith, if they are not required in any other case or crime.

31. Criminal Appeal Nos.273 of 2018, 597 of 2023, 847 of 2018 and 274 of 2018 are allowed in part. The convictions and sentences recorded against the appellants/accused Nos.2, 3, 4 and 9, for the offences punishable under Sections 364-A, 386, 120-B, 148, 324, 326, 506 I.P.C. and Section 25 (1B) of the Arms Act, are hereby by set aside. Instead, Accused Nos.2, 3, 4 and 9 are convicted under Section 364 I.P.C and are sentenced to undergo Rigorous Imprisonment for ten years while maintaining the fine amount of Rs.1,000/- each, in default to suffer Simple Imprisonment for three months, each. The period already undergone by accused Nos.2, 3, 4 and 9 shall be given set off as per Section 428 Cr.P.C.

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

JUSTICE K.SURESH REDDY

JUSTICE SUBBA REDDY SATTI

Date : 04.11.2025
IKN