



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

[3560]

FRIDAY, THE THIRTIETH DAY OF JANUARY
TWO THOUSAND AND TWENTY SIX

**PRESENT
THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA**

CRIMINAL REVISION CASE NOS: 2197, 2198 and 2199 of 2016

CRIMINAL REVISION CASE NO:2197/2016

Between:

1.RAMINEEDI SHESHU BABU, S/O. RAMA NARASIMHA APPA RAO
OCC: BUSINESS R/O. D.NO. 31-10-27, GHATALAMMA TEMPLE
STREET, RAJAHMUNDRY, EAST GODAVARI DISTRICT

...PETITIONER

AND

1.P P HYD, Rep. by its Public Prosecutor High Court at Hyderabad
Hyderabad

...RESPONDENT

Revision filed under Section 397/401 of CrPC praying that in the circumstances stated in the affidavit filed in support of the Criminal Revision Case, the High Court may be pleased to filed under Section 397 & 401 of Cr.P.C., against the judgment and sentence passed by the learned Hon'ble IV Additional District Sessions Judge, Tanuku in CrI.A.No.203 of 2015, dated 30.06.2016.

IA NO: 1 OF 2016(CRLRCMP 3302 OF 2016)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the judgment in CC No.171 of 2009 on the file of Hon'ble II Additional Judicial Magistrate of I Class Tanuku dated 29.10.2014 as conformed in CrI.A.No.203 of 2015 on the file fo hon'ble Iv Additional District Sessions Judge at Tanuku dated 30.06.2016 and pending disposal of above CrI.R.C. and pass

Counsel for the Petitioner:

1.BS KARTIK & PRASAD ESR

Counsel for the Respondent:

1.PUBLIC PROSECUTOR (AP)

CRIMINAL REVISION CASE NO:2198/2016

Between:

1.RAMINEEDI SHESHU BABU, S/O. RAMA NARASIMHA APPA RAO
OCC: BUSINESS R/O. D.NO. 31-10-27 GHATALAMMA TEMPLE
STREET RAJAHMUNDRY, EAST GODAVARI DISTRICT.

...PETITIONER

AND

1.P P HYD, Rep. by its Public Prosecutor High Court at Hyderabad
Hyderabad

...RESPONDENT

Revision filed under Section 397/401 of CrPC praying that in the circumstances stated in the affidavit filed in support of the Criminal Revision Case, the High Court may be pleased to filed under Section 397 & 401 of Cr.P.C., against the judgment and sentence passed by the learned Hon'ble IV Additional District Session Judge, Tanuku, in CrI.A.No.213 of 2015, dated 30.06.2016 conforming the judgment and sentence passed by the Hon'ble II Additional Judicial Magistrate of I Class Tanuku in CC No.229 of 2009 dated 29.10.2014.

IA NO: 1 OF 2016(CRLRCMP 3303 OF 2016

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the judgment in CCNo.229 of 2009 on the file of the Hon'ble II Additional Judicial Magistrate of I Class Tanuku dated 29.10.2014 as conform in CrI.A.No.213 of 2015 on the file of Hon'ble IV Additional District Sessions Judge at Tanuku dated 30.06.2016 pending disposal of above CrI.R.C. and pass

Counsel for the Petitioner:

1.BS KARTIK & PRASAD ESR

Counsel for the Respondent:

1.PUBLIC PROSECUTOR (AP)

CRIMINAL REVISION CASE NO: 2199/2016**Between:**

1.RAMINEEDI SHSHU BABU, S/O.RAMA NARASIMHA APPA RAO
OCC: BUSINESS R/O. D.NO. 31-10-27 GHATALAMMA TEMPLE
STREET RAJAHMUNDRY, EAST GODAVARI DISTRICT.

...PETITIONER

AND

1.P P HYD, Rep. by its Public Prosecutor High Court at Hyderabad
Hyderabad.

...RESPONDENT

Revision filed under Section 397/401 of CrPC praying that in the circumstances stated in the affidavit filed in support of the Criminal Revision Case, the High Court may be pleased to filed under Section 397 & 401 of Cr.P.C., against the judgment and sentence passed by the learned Hon'ble IV Additional District Session Judge, Tanuku, in CrI.A.No.219 of 2015, dated 30.06.2016 conforming the judgment and sentence passed by the Hon'ble II Additional Judicial Magistrate of I Class Tanuku in CC no.200 of 2009 dated 29.10.2014.

IA NO: 1 OF 2016(CRLRCMP 3304 OF 2016)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the judgment in CC No.200 of 2009 on the file of the Hon'ble II Additional Judicial Magistrate of I Class Tanuku dated 29.10.2014 as confirmed in CrI.A.No.219 of 2015 on the file of Hon'ble IV Additional District Sessions Judge at Tanuku dated 30.06.2016 pending disposal of above CrI.R.C. and pass

Counsel for the Petitioner:

1.BS KARTIK & PRASAD ESR

Counsel for the Respondent:

1.PUBLIC PROSECUTOR (AP)

The Court made the following Common Order:

These three criminal revision cases were filed against the judgments and order of convictions and sentences passed by the learned trial Court in three separate calendar cases i.e., C.C.Nos.171, 229 and 200 of 2009. Against such order of convictions in calendar cases, separate appeals have been preferred. All the three criminal appeals are dismissed confirming the orders of learned trial Court.

2. All three calendar cases have arisen out of a single incident happened on 03.03.2008 wherein it has been alleged that the petitioner along with other henchmen of his side has demolished a boundary wall and trespassed into the site of informant thereby committed the offences. It has been further alleged that by such demolition of wall, one bathroom which was lies adjacent to the compound wall became ocular, one lady who was taking bath at that time could not get chance to way out there wrongfully confined into bathroom. It has been further alleged that after trespass into the site of complainant, the petitioner and his men removed the pegs fixed by Mandal Surveyor indicating the boundary line between the land of accused person and informant.

3. In Crime No.63 of 2008, charges are framed under Section 447 and 427 IPC and in Crime No.30 of 2008 charges are framed under Section 342, 447 and 427 IPC against the petitioner along with other accused and in Cr.No.63 of 2008 charges are framed under Sections 447 and 427 IPC against the petitioner. The learned trial Court, after hearing the parties and after recording the evidences, convicted the petitioner under above named sections and

sentenced him to pay fine on different heads. The petitioner assailed those orders in criminal appeals. The learned appellate Court dismissed the appeals confirming the order of convictions. Hence, these criminal revisions.

4. At the outset, learned counsel for the petitioner submits that there is a long standing boundary dispute between the parties, one civil suit being O.S.No.230 of 2008 was filed by the accused in respect of the same boundary dispute. The learned civil Court has decreed the suit in favour of the accused which itself prove that the informant had no title over the portion where it has been alleged that the accused has committed offences of trespass. He further submits that petitioner has placed several documents regarding that the suit being O.S.No.230 of 2008 before the learned trial Court but the learned trial Court did not appreciate the same, hence, there are miscarriage of justice. He further submits that the petitioner could not file decree of civil suit before the learned trial Court or before the learned appellate Court as the decree was passed only in the year 2020. He further submits that on the basis of the decree passed by the learned civil Court, the petitioner deserves to be acquitted from all the cases.

5. Learned counsel for the petitioner further submits that the learned trial Court has not properly appreciated the evidences on record and illegally convicted the petitioner under Section 447 IPC. When the informant has no title over the property in question conviction under Section 447 IPC is not maintainable. He further submits that the other ingredients of offence under

Section 427 IPC were also not properly proved. Thus the order of convictions and sentences passed by the learned trial Court are erroneous.

6. Learned counsel for the petitioner specifically submits that in C.C.No.229 of 2009 though charge under Section 342 IPC has been framed but no direct witnesses were there against the present petitioner to prove the ingredients of offence under Section 342 IPC. He further submits that though the evidences of PWs.1, 2 and 3 in C.C.No.229 of 2009, the prosecution could not bring home the guilt against the petitioner beyond all reasonable doubt. Learned counsel for the petitioner has read out the specific observation of learned trial Court regarding evidence of PW.3 i.e., the lady who was allegedly wrongfully confined by act of the accused. He submits it would reveal that she never saw the accused to do such act by which, PW.3 become illegally confined. Though it has been stated by PW.3 that there are neighbours gathered who called the name of the accused but during evidence PW.3 she did not tell the names of the neighbours. PWs.1 and 2, who are parents of PW.3 were not ocular witnesses, they are hearsay witnesses; there are neither any direct evidence nor any specific evidence to prove the offence of wrongful confinement. Thus the conviction and sentence against the present petitioner under Section 342 IPC is not maintainable.

7. Learned counsel for the petitioner also submits that in C.C.No.200 of 2009 though it is alleged that the present petitioner along with his associates has removed the pegs fixed by the Mandal Surveyor demarcating the boundary between the petitioner and the informant but no evidence is there to

that effect. Moreover, the prosecution has not proved seizure of such pegs from the house of the petitioner. In support of his contention, learned counsel for the petitioner has filed a copy of decree passed by concerned civil Court in O.S.No.230 of 2008. On perusal of the said decree, it appears that by such decree, the learned civil Court has granted mandatory injunction in favour of the plaintiff/accused directing the defendants to restore the walls removed at P&Q of the plaint point as P1&Q1 within three months from the date of decree. Learned counsel for the petitioner submits that the boundary wall as mentioned in the civil Court is the subject matter of the criminal cases which has alleged to have been demolished by the petitioner.

8. I find no material to justify the submission of the learned counsel for the petitioner, at this juncture, learned counsel for the petitioner has referred several portion of the judgment of the learned trial Court wherein it has been noted that the criminal cases were started after filing of the civil suit. Moreover, it has been time and again noted by the trial Court Judge that no documentary evidence was placed before the learned trial Court by the accused with regard to the title of the boundary wall. Learned counsel for the petitioner frankly admitted the contention. Moreover, at this juncture, it is quite difficult for this Court to arrive at the conclusion that the boundary wall mentioned in the civil Court is identical boundary wall in the criminal cases wherein the accused alleged have been demolished the boundary wall. If the documents i.e., the final judgment of the civil Court as well as the impugned judgments in calendar cases placed side by side, it would appear surprisingly

that in civil Court, the petitioner alleged that the defendant/informant has demolished boundary wall whereas in crime case, the informant alleged that the petitioner who is the plaintiff in the civil Court has demolished the boundary wall. Thus, at this juncture, it is quite awkward for this Court to believe the version of the learned counsel for the petitioner that the boundary wall mentioned in the civil Court is identical with the boundary wall in the calendar cases. Moreover, as I have already observed that the petitioner being the accused person had not placed any document in his support regarding his title of the boundary wall or the title of the land where the accused alleged to have been committed offence. In absence of any document of title, learned trial Court has correctly adjudicated the issue on the basis of the witnesses.

9. In considering the order of conviction in C.C.No.171 of 2009 it appears that the learned trial Court has recorded the evidence of witnesses there are eye witnesses of the alleged incident there are documents regarding permission of construction of boundary wall as well as the settlement deed, dated 25.08.1986 in favour of the informant. So I find no impropriety, illegality in the order of conviction and sentence passed by the learned trial Court against the present petitioner, thus there are no merit to entertain Crl.R.C.No.2197 of 2016

10. In considering the order of conviction and sentence in C.C.No.200 of 2009 though it has been alleged that the prosecution has no document or seizure list to show that the peg stones were recovered or seized from the

house of the accused. From the judgment it appears that though PWs.6 and 7 being the mediators of scene observation report, not properly recited prosecution case, they admitted the signature over the report and IO has specifically stated regarding the recovery of peg stones. PW.3 is the eyewitness though several cross-examinations were done before the learned trial Court, I find that the learned trial Court has properly discussed the issue as raised before him and passed the orders of sentence properly thus there is nothing to entertain the present petition regarding Crl.R.C.No.2199 of 2016.

11. In respect of Crl.R.C.No.2198 of 2016, it appears that the conviction under Section 342 IPC against the present petitioner is not based on direct evidences, moreover, the learned trial Court has acted improperly in deciding the issues wherein he has failed to appreciate the fact that the prosecution has not proved the *mens rea* of the petitioner to commit the offence by which he has been alleged to have been wrongfully confined PW.3. As the three calendar cases were heard together thus the learned trial Court must have confused and committed error in recording the conviction under Section 342 IPC. Each and every calendar case has to be decided separately on the basis of each evidence on record. The order of conviction and sentence in C.C.No.229 of 2009 it appears to me not on the basis of evidence on record, prosecution could not bring home the charge. There is benefit of doubt in favour of the petitioner. Accordingly, the conviction and sentence in C.C.No.229 of 2009 is hereby set aside.

12. In the above observation, all three Criminal Revision Cases are disposed of. The petitioner is directed to pay fine before the learned trial Court within eight weeks from the date of passing of this order, if not already paid.

As a sequel, pending miscellaneous applications, if any, shall stand disposed of.

JUSTICE SUBHENDU SAMANTA

Date: 30.01.2026

SPP

THE HON'BLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE Nos.2197, 2198 and 2199 of 2016

Dated 30.01.2026

SPP