

Mohd. Ibrahim Vs. State of Andhra Pradesh

Mohd. Ibrahim Vs. State of Andhra Pradesh

SooperKanoon Citation : sooperkanoon.com/426779

Court : Andhra Pradesh

Decided On : Sep-25-1992

Reported in : 1993CriLJ2489

Judge : G. Radhakrishna Rao, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 307 and 326

Appeal No. : Criminal Appeal No. 428 of 1990

Appellant : Mohd. Ibrahim

Respondent : State of Andhra Pradesh

Advocate for Def. : Addl. Public Prosecutor

Advocate for Pet/Ap. : C. Padmanabha Reddy, Adv.

Judgement :

1. P.W. 2 is the person on whose complaint the case was registered as Crime No. 62/88, and after examining witnesses, charge-sheet under S. 307, I.P.C., was filed. After committal, the following charge was framed :

'That you on or about the 8th day of November, 1988 at about 11.45 p.m., at Amjad Dowla Bagh Lane, Hyderabad did an act to wit stabbed one Jameel Ahmed with a knife with such intention and under such circumstances, that if that act you had caused the death of the said Jameel Ahmed you would have been guilty of

murder and that you caused hurt to the said Jameel Ahmed by the said act and that you thereby committed an offence punishable under S. 307 of the Indian Penal Code and within my cognizance.'

In support of the charges, the prosecution examined in all seven witnesses. P.W. 4 is the doctor the examined P.W. 2 and issued the wound certificate. In all five injuries were noticed by the doctor. According to the doctor, the injuries were grievous. P.W. 2 is the injured himself. The medical and oral evidence establishes that grievous injuries have been caused to P.W. 2 P.Ws. 1 and 2 were examined to speak about the incident. The learned Judge accepted the evidence of the witnesses and found that a case has been made out for an offence punishable under S. 326 of the Indian Penal Code, and accordingly convicted the accused thereunder and sentenced him to undergo rigorous imprisonment for six months and to pay a fine of Rs. 100/- with a default clause.

2. Sri Padmanabha Reddy, learned Counsel for the appellant submits that a counter case has been filed, and that the prosecution has not come out with true and genuine evidence. In support of his submission, he relied upon the evidence of P.W. 7 who stated that he registered the case on the basis of the complaint given by the accused to the effect that he sustained injuries, and registered the same as Crime No. 63/88 under section 324, I.P.C., and that the case is pending before the Second Metropolitan Magistrate, Hyderabad. It is true that in a case where the accused also received injuries, it is the duty of the prosecution to explain those injuries. Non-explanation of such injuries indicates that the prosecution has not come out with true version as to the nature of offence.

3. In this case, P.W. 2 is the person who received injuries and made the complaint. Immediately thereafter, A-1, who also received injuries in the transaction, went to the police and lodged a complaint which attracted the provisions of Section 324, I.P.C. According to the prosecution, even in the counter complaint, only P.W. 1 is shown as the accused. If P.W. 1 caused the injuries to the accused definitely it would outweigh the prosecution evidence. P.W. 2 clearly stated that, after the quarrel between P.W. 3 and the accused was over, the accused abused him (P.W. 2) involving his mother. On that, P.W. 2 got wild and caught hold of collar of the

accused. The accused also caught hold of collar of P.W. 2. In the process, the accused stabbed P.W. 2. Assuming that this version is accepted that the accused was armed with a knife and when P.W. 2's mother was involved by way of provocation, it is but natural to catch hold of collar to prevent him from further doing so. Thus, the evidence of P.W. 2 proves that the accused is the person who caused the injuries to P.W. 2. Though injuries, were found on the person of accused, but, even according to the accused, the same were caused by P.W. 1, and a separate case is registered in that behalf. The same is not fatal to the present case. In fact, that case ought to have been tried along with the present case. No steps were taken by the accused to do so. One of the direct witnesses in this case is the person responsible for causing injuries to the accused. In the circumstances, believing the evidence of P.Ws. 1 and 2, I find that no case has been made out calling for interference by this Court with the order of the lower Court.

The appeal is accordingly dismissed.

4. Appeal dismissed.