



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

[3560]

TUESDAY, THE 21st DAY OF JULY 2026

PRESENT

THE HON'BLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 793/2009

Between:

1. SETTY BHASKARA RAO, S/O. KANNAYYA R/O. BHALUUGUDA, H/O.
POTHANGI, VISAKHAPATNAM DISTRICT.

...PETITIONER

AND

1. STATE OF A P REP BY P P, rep. by its Public prosecutor, High Court of
A.P. at 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 present this memorandum of Crl.R.C., aggrieved by the Judgment and sentence of the VII Addl. District Judge (FTC), Visakhapatnam, dated 27-04-2009 passed in Crl.Appeal No. 24 of 2007, confirming the judgment and conviction of the Assistant Sessions Judge, Chodavaram in S.C. 97/2006, dated 13-06-2007.

IA NO: 1 OF 2009(CRLRCMP 1079 OF 2009)

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 dispense with the requirement of filing the certified copy of the judgment of the Assistant Sessions Judge, Chodavaram dated 13-06-2007 in S.C. 97 of 2006 for the present in the interest of justice.

IA NO: 2 OF 2009(CRLRCMP 1087 OF 2009)

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 enlarge him on bail by suspending the judgment and sentence of the VII Addl. District Judge (FTC), Visakhapatnam, dated 27-04-2009 passed in Crl.Appeal No. 24 of 2007, who confirmed the judgment and conviction of the Assistant Sessions Judge, Chodavaram dated 13-06-2007 in S.C. 97/2006 on such terms and conditions as deemed fit and proper in the circumstances of the case during the pendency of the above Crl.R.C.

Counsel for the Petitioner:

1.K JYOTHI PRASAD

Counsel for the Respondent:

1.PUBLIC PROSECUTOR

The Court made the following:

THE HON'BLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE No:793/2009

ORDER:

1. The instant criminal revision case has been filed against the judgment, dated 27.04.2009, passed by learned VII Additional District Judge (Fast Track Court), Visakhapatnam, in Crl.A.No.24 of 2007, confirming the judgment of conviction and sentence, dated 13.06.2007, passed by learned Assistant Sessions Judge, Chodavaram, in S.C.No.97 of 2006.
2. The petitioner was arrayed as the sole accused in S.C. No.97 of 2006 for the offence punishable under Section 307 of the Indian Penal Code, 1860 (for short, '**I.P.C.**'). Upon conclusion of the trial, learned Assistant Sessions Judge convicted the petitioner and sentenced him to undergo rigorous imprisonment for five years and to pay a fine of Rs.1,000/-. On appeal, while confirming the conviction, learned appellate Court modified the sentence of imprisonment from five years to three years. Aggrieved thereby, the present criminal revision case has been filed.

3. PROSECUTION CASE, IN BRIEF:

- 3.1. P.W.2/ victim and the accused are residents of nearby houses in the same village. There had been frequent disputes between them. Earlier, a case was registered against the accused, wherein he was convicted and fined a sum of Rs.50/-, which allegedly created a grudge against P.W.2.

3.2. It is the further case of the prosecution that on 09.04.2005, at about 4.00 p.m., the accused attacked P.W.2 with a knife, pushed him and inflicted as many as eleven knife blows on his neck with an intention to cause his death. P.W.2 sustained bleeding injuries and raised hue and cry for help. On hearing his cries, other witnesses and villagers rushed to the spot, whereupon the accused managed to escape from the scene.

3.3. A report was lodged with the police, on the basis of which a case was registered for the offence punishable under Section 307 IPC.

3.4. During the course of investigation, P.W.2 was examined by the doctor (P.W.11). After completion of investigation, a charge sheet was filed and, upon trial, learned Assistant Sessions Judge convicted the accused.

4. SUBMISSIONS OF LEARNED COUNSEL FOR THE PETITIONER:

4.1. Firstly, the injuries sustained by P.W.2 were admittedly simple in nature, there was no intention to kill P.W.2 and that due to sudden provocation such assault had caused. The essential ingredients constituting an offence under Section 307 of IPC has not been proved by the prosecution.

4.2. Secondly, it is submitted that the medical evidence is inconsistent with the prosecution case, as the injuries sustained by P.W.2 were simple in nature, as such the assault cannot be equated with the offence punishable under Section 307 IPC.

4.3.Thirdly, he argued that the independent witnesses did not support the prosecution case and were declared hostile. The remaining witnesses examined by the prosecution are close relatives of P.W.2 and, therefore, their testimony ought not to have been relied upon without independent corroboration.

4.4.Learned counsel also submits that the alleged recovery of M.O.1 (knife) from the possession of the petitioner is doubtful, as the mediators to the recovery proceedings turned hostile during trial.

4.5.Lastly, learned counsel submits that both the trial court as well as the appellate court have proceeded erroneously and recorded the conviction of the present petitioner. He further submits that conviction against the present petitioner cannot be recorded under Section 307 of IPC, but at best, the conviction may be recorded under Section 324 of IPC. He further submits that the petitioner has been facing criminal proceedings for nearly twenty years, and therefore, the sentence may be modified by imposing a fine instead of imprisonment.

4.6.In support of his submissions, reliance was placed upon the judgment of Hon'ble Supreme Court rendered in **Hari Singh v. Sukhbir Singh and others¹**.

5. SUBMISSIONS OF LEARNED ASSISTANT PUBLIC PROSECUTOR:

5.1. Learned Assistant Public Prosecutor has refuted the contention of learned counsel for the petitioner and submits that the prosecution has

¹ (1988) 4 SCC 551

successfully bring home the charge against the petitioner beyond all reasonable doubt. It is further submitted that the testimony of the relatives (P.W.1, P.W.3) of P.W.2 cannot be discarded merely on the ground of relationship, particularly when their evidence is otherwise reliable and trustworthy.

5.2. It is further submitted that the evidence clearly establishes that the petitioner bore a grudge against P.W.2 on account of the earlier STC case wherein the petitioner was sentenced with fine and without any provocation, the petitioner inflicted blow on the neck and vital parts of the body of P.W.2, which makes it clear that he has only intention to kill P.W.2.

5.3. He further submits that learned trial court and learned appellate court has categorically dealt with the issue in respect of the value of the evidence. Hence, there is no scope to interfere with the concurrent findings recorded by the Courts below.

6. OBSERVATION OF THIS COURT:

7. Heard learned counsel appearing for the petitioner and learned Assistant Public Prosecutor appearing for the State and perused the material available on record and the judgments of learned trial court and the appellate court.

7.1. As per the provision of Section 307 of IPC, it is necessary for the prosecution to prove that accused had the intention or knowledge that, by his act assault, death is likely to be caused to the victim.

7.2. In **Hari Singh v. Sukhbir Singh** (supra), the Hon'ble Supreme Court held that although the accused (in cited case) was carrying a sharp edged weapon (Ballam), he had used only its blunt side for assaulting the victim. On those peculiar facts, the Supreme Court concluded that the intention to cause death was absent. Thus, ratio of Hari Singh is distinguishable.

7.3. The facts of the present case stand on an entirely different footing. Let me understand whether there is sudden provocation of the petitioner to commit assault upon the victim/ P.W.2.

7.4. The prosecution has narrated that in earlier STC case was ended in punishment to petitioner, wherein the petitioner was convicted and sentenced with a fine. The said fact was not countered by the defence regarding the facts and circumstance of earlier grudge.

7.5. Thus, in the entire prosecution case, there are no circumstances of sudden provocation of the petitioner to assault P.W.2. There are no sudden disputes between them. So that this Court can ascertain that there is sudden provocation.

7.6. Let me understand whether the petitioner had no intention to cause death of P.W.2. The fact suggests that the petitioner attacked P.W.2 with knife and inflicted eleven blows on his neck, which is undoubtedly a vital part of the human body. Causing one or two blows at the neck of a person itself is sufficient to cause death of that person.

7.7. In this particular case, at the time of causing blow, the victim has managed to save himself from the blow and petitioner, which resulted the petitioner to cause further more blow; by that way, eleven blows are there. There is no explanation from the defence side, why eleven numbers of blow of knife was caused on the neck of P.W.2 in an sudden provocation. Thus, the argument lack of intention of petitioner to kill P.W.2 is not justified.

7.8. Insofar as the medical evidence is concerned, it is admitted that the injuries sustained by P.W.2 have been opined to be simple in nature. In a case under Section 307 IPC, it is not necessary to assess the ingredients of Section 307 IPC merely by calculating the nature of injuries sustained by the injured person. The evidence suggests that the accused inflicted eleven blows with a knife on the neck of the victim. Even if the injuries are opined to be simple in nature, that by itself does not render the medical evidence inconsistent with the prosecution case or negate the offence under Section 307 IPC.

7.9. On considering the evidence of other prosecution witnesses who are relatives of P.W.2, learned appellate court has extensively considered the issue in paragraphs 10 and 11 of its judgment regarding the value of evidence of other relative witnesses of P.W.2. Moreover, though they are the relatives, the value of the witnesses cannot be brushed aside at this stage.

7.10. As regards the recovery of M.O.1 (knife), it appears that the mediators to the seizure turned hostile during trial. However, learned trial court recorded that mediator has admitted his signature over the mediatorsnama.

7.11. Learned trial court, at paragraph 10 of its judgment, has rightly relied upon the admissible portion of the testimony of P.W.8. In my view, the observation of learned trial court appears to be not illegal or improper in the attending facts and circumstances of the case.

7.12. Under the above observation, I find no justification to interfere with the order of learned trial court as well as learned appellate court in recording conviction and sentence of the present petitioner.

7.13. It is argued by learned counsel for the petitioner that the offence under Section 307 of IPC may be converted to Section 324 of IPC. However, in the facts and circumstances of the present case, it is amply clear from the strength of the evidence that the prosecution has bring home the charge against the accused under Section 307 of IPC beyond reasonable doubt. Therefore, the punishment imposed upon the petitioner cannot be modified by converting the conviction from Section 307 of IPC to Section 324 of IPC.

7.14. Considering the entire facts and circumstances of the case, I find no valid or sufficient ground to interfere with the concurrent findings recorded by the courts below. The order of conviction and sentence passed by learned trial court, as affirmed by the learned appellate court, does not

warrant any interference. Accordingly, the instant criminal revision, being devoid of merit, is liable to be dismissed and is hereby dismissed.

7.15. The order suspending the sentence during pendency of the criminal revision case stands vacated. The petitioner is directed to appear before learned trial court/ jail authorities within six weeks from the date of passing of this order to serve out the remaining portion of the sentence. Failing which, learned trial court shall issue a non-bailable warrant against petitioner to comply the order.

7.16. Accordingly, the criminal revision case is disposed of.

8. Miscellaneous petitions, if any, pending in this revision case shall stand closed.

JUSTICE SUBHENDU SAMANTA

Dt.21.07.2026

BV

Whether the order is :

Speaking Yes/No / Reasoned Yes/No

Reportable Yes/No