APHC010119422014

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3368]
(Special Original Jurisdiction)

THURSDAY, THE 23rd DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI

CRIMINAL APPEAL No: 1251/2014

Between:

1. NARALASETTY SAMBASIVA RAO, GUNTUR DT.,, OCC: WORKING 'AS SEPOY IN INDIAN ARMY, 9 ENGINEERING REGIMENT MANIPAL STATE, R/O PULIGADDAVARIPALEM (V), CHERUKUPALLY MANDAL, GUNTUR DISTRICT, A.P.

...APPELLANT

AND

1. STATE OF AP REP PP, Representative Public Prosecutor In The High Court Of Judicature At Hyderabad For The State Of Telangana and The State Of Andhra Pradesh

...RESPONDENT

Counsel for the Appellant:

1. M RADHAKRISHNA

Counsel for the Respondent:

1. PUBLIC PROSECUTOR (AP)

The Court made the following:

THE HONOURABLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI

CRIMINAL APPEAL No: 1251 OF 2014

O R A L J U D G M E N T:

Heard Sri M.Radhakrishna, learned counsel for the appellant / A-1 and Ms.P.Akhila Naidu, learned Assistant Public Prosecutor representing the respondent/State.

2. The appeal is preferred by the appellant/convict/A-1 challenging the judgment dated 21.11.2014 passed in S.C.No.52/2014 on the file of Assistant Sessions Judge, Guntur Division at Repalle.

3. For the sake of convenience, the parties hereinafter referred to as they were arraigned before the Sessions Court.

4. The trial Court found the appellant/A-1 guilty for the charge U/secs.3 and 5 of Explosives Substances Act, 1908 and convicted the appellant/A-1 to undergo rigorous imprisonment for a period of ten (10) years and to pay fine of Rs.2,000/- (Rupees Two Thousand only), in default to suffer simple imprisonment for a period of one (01) year, for the offence U/s.3 of the Explosives Substances Act, 1908 and further convicted the appellant/A-1 to undergo rigorous imprisonment for a period of five (05) years and to pay fine of Rs.1,000/- (Rupees Two Thousand only), in default to suffer simple imprisonment for a period of six (06) months, for the offence U/s.5 of the Explosives Substances Act, 1908. Both the sentences shall run concurrently.

CASE OF THE PROSECUTION:

5. The case of the prosecution is that the appellant/A-1 was working as Sepoy in Indian Army at Manipur. He visited a hotel in the name and style of “GHUMA GHUMALU” located at Cherukupalli Village eight months ago, prior to the date of offence. An altercation occurred at the hotel with the owner regarding serving of a food item. Therefore, the appellant bore grudge against the owner of the hotel. He decided to take revenge.

6. The accused No.2 is a friend of the appellant/A-1. He was also working as Sepoy in Army. The appellant requested A-2 to arrange explosive substance to blast the hotel. Later, the appellant purchased explosive substances from the friend of A-2. He returned to the village, kept the explosive substance in the room of his friend Nani at Gullapalli Village.

7. Thereafter he prepared a bomb with the explosive substance. He decided to explode the bomb in the hotel to create sensation in the village. Later, on 26.03.2012 he kept the bomb in a luggage bag, went to the hotel, and dropped the bomb in an air-conditioned room of the hotel. The appellant/A-1 made a phone call to the hotel that the bomb will explode. He also made a phone call to the police station at Cherukupalli Village about the installation of the bomb.

8. On receiving the phone call, ASI of Police, Cherukupalli Police Station instructed staff to visit the hotel and to defuse the bomb. They

heard a bomb blast from the air-conditioned room of the hotel. The cashier of the hotel presented a report to the police. ASI of Police registered a case in Cr.No.35/2012. Inspector of Police (P.W-18) conducted investigation. He visited the scene of offence in the presence of P.Ws-12 and 13, seized some explosive substances at the scene of offence i.e., blast site in the hotel under the cover of mediator's report. Later, examined witnesses and recorded their statements.

9. The Investigation Officer collected call data relating to the mobile number recorded in the caller ID at police station and found the role of the appellant/A-1. On information, he surprised the house of P.W-6 at Gullapalli Village. He found the appellant/A-1 locking a room in the house and trying to skulk away. He apprehended the appellant/A-1 in the presence of P.Ws-12 and 13, seized explosive substances in the room of the house, under the cover of mediator's report (Ex.P-6 and arrested the appellant.

10. Later, the Deputy Superintendent of Police (P.W-19) also interrogated the appellant in police custody on 05.04.2012. The Investigation Officer also seized a mobile phone on the information provided by the appellant/A-1 on 31.03.2012 at the house of P.W-10. The mobile phone belongs to the appellant. The IMEI numbers of the mobile phone were tallied with the IMEI numbers in the report given by

expert, basing on the mobile phone number recorded in the caller I.D. of the phone available at the police station.

11. The Deputy Superintendent of Police (P.W-19) received orders of the District Magistrate-cum-District Collector, Guntur, according to permission to prosecute the accused. On concluding the investigation, P.W-19 laid charge sheet before the Magistrate. The case was committed to the Sessions Division.

12. The Assistant Sessions Judge charged the appellant/A-1 for the offence U/secs.3 and 5 of the Explosives Substance Act, 1908. He was also charged for the offence U/s.436 IPC. The charge was read-over and explained to the appellant/A-1. The appellant/A-1 pleaded not guilty and claims to be tried. It is pertinent to mention that A-2 was charged for the offence U/s.5 of the Explosives Substance Act, 1908, but the trial Court found him not guilty. Accordingly, acquitted him. It appears no appeal preferred by the State, challenging the order of acquittal of A2.

EVIDENCE FOR THE PROSECUTION:

13. The prosecution to prove the above charge, examined 20 witnesses as P.Ws-1 to 20, and during their evidence, marked Exs.P-1 to P-26, apart from M.O-1 mobile phone.

14. The accused were examined U/s.313 Cr.P.C. regarding the incriminating circumstances appearing against them from the evidence

for the prosecution. They denied the same as not true and correct. No defence evidence adduced for the accused.

FINDING OF THE ASSISTANT SESSIONS JUDGE:

15. The Assistant Sessions Judge on consideration of the above evidence, found the appellant/A-1 guilty for the offence U/secs.3 and 5 of the Explosive Substances Act, 1908, and convicted and sentenced him as mentioned above. So far as the offence U/s.436 IPC, trial Court observed that the appellant/A-1 cannot be punished U/s.436 IPC, as he was found guilty of the offence U/s.3 of the Explosive Substances Act, 1908 mentioned above. Therefore, the appeal came to be preferred, challenging the judgment of the Assistant Sessions Judge, Repalle, on various grounds.

16. Sri M.Radhakrishna, learned counsel for the appellant/A-1 would argue that there is no iota of evidence to connect the appellant/A-1 with M.O-1 mobile phone. There is no evidence on record to connect him with the alleged seizure of explosive substance. There is no evidence on record to connect the appellant with the alleged blast occurred in the hotel. Therefore, the trial Court committed serious flaw and came to an erroneous conclusion which led to travesty of justice. Hence, the judgment of the trial Court is not sustainable either on facts or in law. During the course of his arguments, he had pointed out certain portions of evidence, which will be discussed later in the judgment.

17. The learned Assistant Public Prosecutor per contra would submit that the evidence of the mediators, Investigation Officer i.e., Inspector of Police and the evidence of the Deputy Superintendent of Police and other Police Officers would prove the charge beyond all reasonable doubt. There is no reason to interfere with the judgment of the trial Court.

18. In the light of above rival contentions, the point that would arise for consideration in this Criminal Appeal is as under:

> "***Whether the judgment of the Assistant Sessions Judge, Repalle, is not sustainable either on facts or in law***"?

19. **P O I N T**: It is the specific case of the prosecution that the appellant/A-1 made a phone call to the police station on 26.03.2012 intimating that he planted a bomb in the hotel, and it may blast any moment. It is also the case of the prosecution that the police station is having a land line phone with caller I.D. facility. Therefore, the number was recorded in the caller I.D. It was forwarded to the Forensic Team. The Forensic Team examined the details and identified IMEI numbers relating to the mobile number recorded in the caller I.D. available at the police station. Later, after arrest of the appellant/A-1 on 30.03.2012 under Ex.P-6 proceedings, confessed about the mobile phone and it's availability at the house of P.W-10. Therefore, P.W-18 visited the house of P.W-10 on 31.03.2012 and recovered M.O-1 phone.

ANALYSIS:

20. Now the question is whether the evidence on record would support the above theory put forward by the prosecution?

21. The Inspector of Police/P.W-18 in the cross-examination admitted that he is not having any record to show that he traced out the IMEI number of the mobile phone. He also admitted that he could not secure the I.D. proof of the person, who purchased the SIM card from the distributor of the service provider.

22. The case of the prosecution is that P.W-6 is the distributor of the particular SIM card used on the mobile phone, and he sold the SIM card to the appellant/A-1. But he sold it to the appellant/A-1 without collecting any documents. P.W-6 did not support the case of the prosecution. He did not identify or state that the appellant/A-1 purchased the SIM card. Therefore, there is no evidence on record to conclude that the land line phone at the police station is having caller I.D. facility, it recorded the mobile number on 26.03.2012. Thereafter, it was examined by the Forensic Team. They found the IMEI number and service number etc. and furnished the same to the Investigation Officer. There is no evidence to connect the appellant with the SIM card or mobile phone produced in the case.

23. The other circumstance relied on by the prosecution to connect the appellant/A-1 with the offence is that on 30.03.2012 at about 06.30 a.m. P.W-18 surprised the house of P.W-8 on credible information

about the appellant/A-1 presence at the house. Immediately, they noticed the presence of the appellant/A-1. On seeing the police, the appellant/A-1 tried to skulk away. Therefore, on suspicion, P.W-18 detained the appellant in the presence of P.Ws-12 and 13 i.e., mediators and searched the house and found the contraband i.e., explosive substances.

24. The prosecution case is that the friend of the appellant has been residing in the house which belongs to P.W-8. Therefore, the appellant had access to the said premises, and he stored the contraband seized, in that house. The prosecution examined P.W-8 as owner of the house. He did not support the case of the prosecution. He deposed that he does not know the appellant or the other accused in the case. Therefore, there is no evidence to conclude that the accused had access to the house, which belongs to P.W-8.

25. It is the contention of the learned counsel for the appellant/A-1 that P.Ws-12 and 13 i.e., mediators are stock witnesses to the police. Police did not follow section 100 of Cr.P.C. though, I.O had prior information and visited the house for the purpose of search. He did not try to secure any person from that locality or at least the Panchayat Officer or Revenue Officer of that village.

26. Admittedly, P.Ws-12 and 13 belonged to another village. In fact, the evidence on record would show that they are assisting police from 27.03.2012 onwards.

27. There is no dispute that P.Ws-12 and 13 are from a different village. P.W-12 admits the said fact. The evidence of P.W-18 or P.W-19 does not disclose that they made attempts to secure local inhabitants to stand as witnesses for the search of the closed place i.e., house, as stipulated U/s.100(4) of Cr.P.C. There is no evidence on record to show that P.W-18 made attempts to secure local inhabitants, but could not secure, and then he secured P.Ws-12 and 13 from another locality to witness the search conducted at the house of P.W8. The conduct of Investigation Officer creates a doubt if the search and seizure was really conducted in the manner deposed by the investigation officer.

28. The evidence on record would disclose that from the beginning P.Ws-12 and 13 have been assisting P.W-18 for the reasons best known. In fact, P.W-13 did not support the case of the prosecution. As already mentioned above, the owner of the house i.e., P.W-8 where explosive substance seized or owner of the house where mobile phone seized i.e., P.W-12 did not support the case of the prosecution. In fact, they did not even identify the appellant/A-1. Therefore, the seizure of contraband is not proved by the prosecution beyond all reasonable doubt. Nothing has been made out to conclude that the contraband found at the house of P.W-8, kept there and concealed by the appellant/A-1 alone. It appears some other persons also residing in

the same house including the owner of the house. No evidence to conclude that appellant planted the bomb at the hotel.

29. In the light of above circumstances, when there is no evidence on record to connect the appellant/A-1 with the possession of the explosive substances seized at the house of P.W-8 or that he caused the explosion occurred at the hotel, it cannot be concluded that the prosecution proved the offence either U/s.3 or 5 of the Explosive Substances Act, 1908, beyond reasonable doubt.

30. The trial Court did not consider the above evidence in a proper perspective. Therefore, came to an erroneous conclusion that prosecution proved offence against the appellant/A-1.

CONCLUSION:

31. In the light of foregoing discussion, the conviction and sentence imposed by the trial Court is not sustainable either on facts or in law and liable to be set aside.

RESULT:

32. In the result, the Criminal Appeal is allowed. The judgment dated 21.11.2014, passed in S.C.No.52/2014 on the file of Assistant Sessions Judge, Repalle, is set aside. The appellant/A-1 is acquitted for the offence U/secs.3 and 5 of the Explosive Substances Act, 1908. The bail bonds of the appellant/A-1 shall stand cancelled. The fine amount if any paid by the appellant/A-1, shall be refunded in

accordance with law. This judgment be certified to the trial Court as per section 405 of Cr.P.C.

As a sequel, Interlocutory Applications pending, if any, shall stand closed.

JUSTICE B.V.L.N. CHAKRAVARTHI

23.07.2026

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THE HONOURABLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI

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Whether the judgment is:

Speaking Yes/No / Reasoned Yes/No
Reportable Yes/No / Non-Reportable Yes/No.