

HIGH COURT OF ANDHRA PRADESH
THURSDAY ,THE TWENTIETH DAY OF APRIL
TWO THOUSAND AND TWENTY THREE

PRSENT

THE HONOURABLE SRI JUSTICE A V RAVINDRA BABU

CRIMINAL APPEAL NO: 1804 OF 2009

Between:

1. Thammiseti Bakkaiah, S/o. Venkateswarlu,
Cultivation,
Dwarakampadu Village,
Martur Mandal,
Prakasam District.

...PETITIONER(S)

AND:

1. State of Andhra Praesh, rep by its Public Prosecutor,
High Court of A.P.,
Hyderabad.

...RESPONDENTS

Counsel for the Petitioner(s): NIMMAGADDA SATYANARAYANA

Counsel for the Respondents: PUBLIC PROSECUTOR (AP)

The Court made the following: ORDER

*** HON'BLE SRI JUSTICE A.V.RAVINDRA BABU**

+ CRIMINAL APPEAL No.1804 OF 2009

% 20.04.2023

Between:

Thammiseti Bakkaiah, S/o Venkateswarlu,
Aged 48 years, Occ: Cultivation,
Dwarakampadu Village, Martur Mandal,
Prakasam District Appellant/Accused.

Versus

The State of Andhra Pradesh, rep. by its
Public Prosecutor, High Court of Andhra Pradesh.
... Respondent.

! Counsel for the Appellant : M/s.Nimmagadda Revathi,
Learned counsel, representing
Sri Nimmagadda Satyanarayana.

^ Counsel for the Respondent : Public Prosecutor

< Gist:

> Head Note:

? Cases referred:

(2020) 10 SCC 710

This Court made the following:

HON'BLE SRI JUSTICE A.V.RAVINDRA BABU**CRIMINAL APPEAL No.1804 OF 2009****JUDGMENT:**

This Criminal Appeal, under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C'), is filed by the appellant, who was the accused in Sessions Case No.1 of 2009 on the file of the Court of Special Judge for trial of offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Prakasam Division, Ongole (for short, 'the learned Special Judge'), questioning the judgment therein, dated 09.12.2009, where under the learned Special Judge found the appellant herein guilty of the charge under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the SCs & STs Act') and accordingly convicted him under Section 235(2) Cr.P.C and, after questioning him about the quantum of sentence, sentenced him to undergo Simple Imprisonment for a period of six months and to pay a fine of Rs.500/- in default to suffer Simple Imprisonment for 15 days for the offence under Section 3(1)(x) of the SCs & STs Act.

2. The parties to this Criminal Appeal will hereinafter be referred to as described before the trial Court, for the sake of convenience.

3. The Sessions Case No.1 of 2009 arose out of the committal order in PRC No.13 of 2008 on the file of the Court of Additional Judicial Magistrate of First Class, Addanki pertaining to Crime No.11 of 2008 of Martur Police Station. The State, represented by Sub-Divisional Police Officer, Chirala filed charge sheet pertaining to above said Crime for the offence under Section 3(1)(x) of the SCs & STs Act alleging in substance that accused is resident of Dwarakampadu Village, Martur Mandal. The scene of offence is situated at Valaparla Village of Martur Mandal. LW.1 – Murikipudi Yesaiah is resident of Valaparla Village, who belonged to Scheduled Caste *i.e.*, Madiga. He lives by cultivation. One Thalluri Akkaiah is the cousin brother of LW.1. One Ramana is the younger sister of the accused. The said Akkaiah stabbed the said Ramana on 05.05.2004 at Valaparla Village, which is the subject matter in Crime No.41 of 2004 of Martur PS for the offence under Section 307 IPC. After due trial, the said case was ended in conviction and the accused in the above said Sessions Case No.29 of 2005, by name Akkaiah, was sentenced to undergo

Imprisonment for five years on 17.06.2005 by the learned Assistant Sessions Judge, Addanki. Now the said case is under Appeal in higher Court. After getting bail in the above said Appeal, the said Akkaiah again beat the said Ramana on 24.06.2004 for which Crime No.50 of 2004 was registered under Section 324 IPC, which is now pending for trial *vide* C.C. No.192 of 2004 on the file of the Court Additional Judicial First Class Magistrate, Addanki.

While so, on 13.01.2008, LW.1 came to the hotel of LW.3 – Shaik Khader Vali @ Vali to have breakfast along with LW.2 – Mukiri Bhushanam. At that time, accused came to the hotel and asked the hotel proprietor - LW.3 to compromise the hurt case of their caste people. Then, the hotel owner - LW.3 replied him that he will compromise the matter and suggested him to compromise the case of his sister and cousin brother of LW.1. Then the accused grew wild and indicating the caste name of LW.1 abused him in filthy language (The words are not mentioned here by this Court as it is abusive sexual word towards females) as such humiliated LW.1 on the ground of untouchability. LW.2 and LW.3 intervened and sent away the accused. Meanwhile, LW.4 – Janjanam Subbarao also came there and enquired about the issue. Accused again came there and scolded LW.1 with the same

words. So, accused humiliated him on the ground of untouchability in the public view. LWs.2 to 5 witnessed the occurrence and LW.6 learnt about the occurrence. Subsequently, LW.1 came to the Police Station and presented a report. LW.8 – Md. Firoz, SI of Police, Martur PS, registered the same as a case in Crime No.11 of 2008. LW.9 – K. Srinivasa Rao, Sub-Divisional Police Officer, Chirala took up the investigation, examined the witnesses and recorded their statements. He visited the scene of offence, arrested the accused on 16.01.2008 and sent him for remand. LW.7 – Smt. N. Nagendramma, Tahsildar, issued the caste certificate of LW.1 as Hindu – Madiga. Hence, the charge sheet.

4. The learned jurisdictional Magistrate took cognizance of the above and numbered it as PRC No.13 of 2008. After appearance of the accused and completing the formalities under Section 207 Cr.P.C. committed the case to the Court of Session and thereafter the case was numbered as S.C.No.1 of 2009 and it was made over to the Court of learned Special Judge. On appearance of the accused before the before the Court below, a charge under Section 3(1)(x) of the SCs & STs Act was framed and explained to the

accused in Telugu for which he pleaded not guilty and claimed to be tried.

5. To bring home the guilt of the accused, the prosecution, during the course of trial, examined PWs.1 to 9 and got marked Exs.P-1 to P-10.

6. After closure of the evidence of the prosecution, accused was examined under Section 313 Cr.P.C with reference to the incriminating circumstances appearing in the evidence let in by the prosecution for which he denied the same. He did not adduce any defence evidence.

7. The learned Special Judge, on hearing both sides and after considering the oral and documentary evidence on record, found the accused guilty of the charge and accordingly convicted under Section 235(2) Cr.P.C. and after questioning him about the quantum of sentence, sentenced him as above.

8. Felt aggrieved of the same, the unsuccessful accused in the aforesaid Sessions Case, filed the present Criminal Appeal.

9. Now, in deciding this Criminal Appeal, the points that arise for consideration are as follows:

1. Whether the prosecution before the Court below proved beyond reasonable doubt that on 13.01.2008 at the hotel of Shaik Khader Vali, Son of Moulali, accused not being a scheduled caste or scheduled tribe person, intentionally insulted or intimidated PW.1 – Murikipudi Yesaiah in the name of his caste using abusive words within the public view?
2. Whether there are any grounds to interfere with the impugned judgment?

10. **POINT NOs.1 & 2:** Smt. Nimmagadda Revathi, learned counsel, representing learned counsel for the appellant, would contend by canvassing the facts that the sister of the accused was beaten in the hands of the brother of PW.1 twice. When the brother of PW.1 by name Akkaiah stabbed the sister of the accused, he was tried in S.C. No.29 of 2005 on the file of the Court of Assistant Sessions Judge, Addanki, who was convicted and sentenced to undergo imprisonment for 5 years. After getting bail, he again attacked Ramana, which was the subject matter in C.C. No.192 of 2004. So, there were bitter ill-feelings between the sister of the accused and Akkaiah, who was no other than the brother of PW.1. So as to compel the accused to come for settlement of

compromise, accused was falsely implicated in this case. PWs.1 and 2 are interested witnesses. PW.2 exaggerated the case of the prosecution during the course of trial. Rest of the witnesses, especially PW.3 and his family members, did not support the case of the prosecution. PW.3, the so called Vali, turned hostile to the case of prosecution. Though the offence was said to be happened on 13.01.2008 at 09:00 a.m., at the hotel of PW.3, PW.1 did not choose to lodge report on the same day and on the next day, he lodged report, without explaining anything in Ex.P-1 as to why he could not lodge the report immediately. He put up a version in his evidence that when he went to the Police Station, nobody were present. The above said version put up by PW.1 cannot stand to scrutiny. So, the prosecution failed to explain the abnormal delay of more than one day. On account of the bitter animosity, as above, the delay in lodging the report is fatal to the case of the prosecution. PW.1 admitted in cross-examination that accused did not enter into any altercation with him before the offence and there was no wordy altercation between PW.1 and the accused. When that is the situation, PW.2 deposed as if PW.1 and accused exchanged words. Even Ex.P-1 did not disclose that accused abused directly PW.1. Accused had no necessity to make any proposal before PW.3 to compromise the case of his caste people.

Prosecution did not prove anything in which matter the accused was interested to get the case compromised. He had no necessity to get the case compromised which was pending against the brother of the PW.1 filed by the sister of accused. Even considering the contents of Ex.P-1, it did not disclose anything that accused abused PW.1. The allegations in Ex.P-1 are totally vague. She would rely upon a decision of the Hon'ble Apex Court in **Hitesh Verma v. State of Uttarakhand and another**¹ to contend that the place of offence is said to be the hotel of PW.3 and prosecution did not establish that the said hotel is within the public view. PW.2 was a planted witness to support the case of PW.1. He did exaggerate the version in his evidence which is highly doubtful. So, the prosecution failed to establish that the place of offence alleged against the accused is within the public view. Even otherwise, the allegations in Ex.P-1 are totally vague. According to Ex.P-1, no offence could be made out against the accused. The learned Special Judge, without analyzing the evidence on record, erroneously found the accused guilty of the offence under Section 3(1)(x) of the SCs & STs Act. She would further submit that the evidence on record does not warrant any conviction against the

¹ (2020) 10 SCC 710

accused. On the other hand, it warrants the Court to extend the benefit of doubt and as such the Appeal is liable to be dismissed.

11. Sri Y. Jagadeeswara Rao, learned counsel, representing learned Public Prosecutor, appearing for the respondent-State, would contend that though the evidence of PWs.1 and 2 has no corroboration from any independent source, because the rest of the witnesses turned hostile but their evidence is fully convincing and conviction can be maintained basing upon their evidence. Prosecution explained the delay in lodging Ex.P-1 properly. The learned Special Judge on thorough analysis of the evidence on record convicted the appellant and as such the Appeal is liable to be dismissed.

12. Coming to the evidence of PW.1, he is the *de-facto* complainant, who set the criminal law into motion by lodging Ex.P-1 report on 14.01.2008 at 09:00 a.m. when the offence was said to be happened on 13.01.2008 at 09:00 a.m. PW.2 claimed to be a direct witness to the occurrence who was present in the hotel of PW.3 at the time of occurrence. Coming to the evidence of PW.1, his evidence is that on 13.01.2008 at 09:00 a.m. he went to the hotel of LW.3 to take Tiffin. Accused also came there and LW.3 was present in the counter of the hotel. Accused asked LW.3 to

compromise the case of one Guruvaiah for which LW.3 replied and directed the accused to compromise the case of his sister, who filed the case against Akkaiah, his cousin, on the ground that all of them are having children. Accused abused him (PW.1) in the name of his caste (The words are not mentioned here by this Court as it is abusive sexual word towards females). He (PW.1) belongs to Madiga caste. LW.2 was also present at that time. Then, LWs.2 and 3 sent away the accused from the hotel. Again the accused came and abused him by using the aforesaid words, informing LW.3 that he would not compromise the case. LW.4, who was present there also tried to pacify the matter. On the same day, he went to Martur Police Station to give complaint. At that time, the Home Guard was present and SI was not present. Hence, on 14.01.2008 he gave complaint. Ex.P-1 is complaint made by him in the Police Station.

13. Coming to the evidence of PW.2 by name Mukuri Bhushanam his evidence is that about one and half years ago on one day around 09:30 a.m. PW.1 and accused are present in the hotel. He went there to take Tiffin. At that time, PW.1 and accused are exchanging words. He intervened and pacified the matter and sent them away. Again after 10 minutes accused came to the hotel

of LW.3 and again he asked the accused why he came again and at that time, PW.1 also came there. LW.3 asked the accused to compromise the case on the ground that he was having children and he (PW.2) does not know specifically what was the case and the accused asserted that the question of compromising the case does not arise and abused PW.1 (The words are not mentioned here by this Court as it is abusive sexual word towards females). At that time, LW.4 also came there and sent away the accused and PW.1. The accused abused PW.1 with the above said words.

14. Coming to the evidence of PW.3, hotel owner, Shaik Khader Vali, he did not support the case of prosecution. According to him about one year back incident took place at his hotel. At that time, he was sitting in the counter of the hotel. By that time, he came outside of the counter and noticed accused and PW.1 went away from the place where they quarreled. While he was sitting in the counter, he did not witness the presence of PW.1 and the accused and hence he did not know anything about the facts of the case. Prosecution got declared him as hostile and during cross-examination he denied that he is deposing false and stated before Police as in Ex.P-2.

15. Coming to the evidence of PW.4, he did not support the case of prosecution. He deposed that he does not know anything about the case and stated to Police that he does not know anything about the facts of the case. Prosecution got declared him as hostile and during cross-examination he denied that he stated before Police as in Ex.P-3.

16. Coming to the evidence of PW.5, he is a cooking master in the hotel of PW.3. About one year back, he was present in the kitchen of the hotel of PW.3 and does not know about the facts of the case. Police examined him and he stated that he does not know anything about the facts of the case. Prosecution got declared him as hostile and during cross-examination he denied that he stated before Police as in Ex.P-4.

17. Coming to the evidence of PW.6, who was the then Tahsildar, deposed that she issued the caste certificate of PW.1 certifying that he belongs to Madiga caste. Ex.P-5 is his caste certificate. She also issued Ex.P-6, caste certificate of accused certifying that he belongs to Vaddera.

18. Coming to the evidence of PW.7, the Sub-Inspector of Police, he deposed that on 14.01.2008 while he was in the Police Station,

he received Ex.P-1 from PW.1 and basing on which a case in Crime No.11 of 2008 was registered under Section 3(1)(x) of the SCs & STs Act and sent express FIR to the AMM Court, Chirala and copies of FIR to all the concerned. Ex.P-7 is the original FIR. During cross-examination he deposed that Police works round the clock and receives complaints, if any.

19. PW.8, son of PW.3, did not support the case of prosecution. He deposed that he does not anything about the facts of the case. Prosecution got declared him as hostile and during cross-examination he denied that he stated before Police as in Ex.P-8.

20. PW.9 is the Sub-Divisional Police Officer, who deposed that on 14.01.2008, the Sub-Inspector of Police, Martur informed him about the registration of a case in Crime No.11 of 2008 for the offence under Section 3(1)(x) of the SCs & STs Act. On 15.01.2008, he received radio message from Superintendent of Police, Ongole authorizing him to take up investigation, which is Ex.P-9. He left Chirala at 09:00 a.m. and inspected the scene of offence. He prepared rough sketch, which is Ex.P-10. He secured the presence of PWs.1 to 5 and 8 and examined them. On 16.01.2008 at 08:00 p.m. he arrested the accused and brought him to the Police Station. On the next day he sent him for remand. Thereafter, he

obtained the caste certificates of PW.1 and accused, which are Exs.P-5 and P-6. He recorded the statements of PWs.3 to 5 and 8 as in Exs.P-2 to P-4 and P-8 and after completion of investigation filed charge sheet in the case.

21. The gist of the offence under Section 3(1)(x) of the SCs & STs Act is intentionally insulting or intimidating the scheduled caste people within the public view. So, the allegations are that the accused abused PW.1 in the name of his caste with offensive words. This is the sum and substance of the case of the prosecution. According to the case of the prosecution, the incident was happened in the hotel of PW.3. PW.3 did not support the case of the prosecution. Even PWs.4, 5 and 8 did not support the case of the prosecution. Their hostility towards the case of the prosecution is proved by virtue of the evidence of PW.9. So, by eliciting answers from PW.9 that PWs.3 to 5 and 8 stated before him as in Exs.P-2 to P-4 and P-8, the prosecution could only establish that they turned hostile to the case of prosecution. So, absolutely, the evidence of above witnesses did not corroborate the testimony of PWs.1 and 2. Now, it is pertinent to look as to whether the evidence of PWs.1 and 2 inspires confidence in the

mind of the Court and it is trustworthy, and they can be a basis to maintain the conviction against the accused.

22. Now, coming to the cross-examination part of PW.1, he deposed that he does not know whether his cousin brother was convicted and imposed sentence of 5 years of imprisonment in the case filed by the sister of the accused by name Ramana. He heard that his cousin brother – Talluri Akkaiah stabbed the sister of the accused *i.e.*, Ramanamma. He does not know the facts of the case against one Guravaiah. No wordy altercation took place between him and the accused before the offence except he was abused by the accused. Accused and PW.2 came to the same hotel. He denied that he did not visit the Police Station on the date of incident. He himself drafted Ex.P-1. He denied that as accused did not compromise the case which was filed by his sister – Ramana against the cousin brother of PW.1 he filed false case with false allegations and that he is deposing false.

23. Turning to the cross-examination part of PW.2, he denied that accused and PW.1 did not exchange words. He denied that accused did not come to the hotel of LW.3 after ten minutes. He denied that he did not visit the hotel of LW.3 and that he is deposing false on the ground that he belongs to scheduled caste.

24. As evident from the cross-examination part of PW.1, he deposed that he does not know whether his cousin brother was convicted and imposed sentence of 5 years in that case. It is to be noticed that even according to the allegations in the charge sheet the cousin brother of PW.1 was convicted on the allegations that he attacked the Ramana, sister of the accused, and he was convicted and sentenced for 5 years imprisonment. Hence, the evidence of PW.1 as if he does not know anything about the conviction of his cousin brother is of no use to the case of prosecution because conviction of the cousin brother of PW.1 was not in dispute. According to the averments in the charge sheet, and admittedly, even according to the admission made by PW.1 there was no wordy altercation between him and the accused. When that is the case, it is not understandable as to why PW.2 could depose that when he went to the hotel to take Tiffin, PW.1 and accused were exchanging words. It is not the evidence of PW.1 that after ten minutes when the accused came there PW.2 questioned the accused as to why he again came there. So, the evidence of PW.2 that when the accused came there second time, he asked the accused as to why he came there goes in conflict with the evidence of PW.1. Even assuming this discrepancy as minor

one but there is improvement in the evidence of PW.2 as if he found PW.1 and accused, who were exchanging words.

25. For better appreciation, it is pertinent to look into Ex.P-1 to know about the case of the prosecution at the time of alleged incident. As seen from Ex.P-1, the report of PW.1, the allegations are that when PW.1 went to the hotel of PW.3 to take Tiffin, accused was there and he (accused) asked Vali, hotel owner, to compromise the case of his caste people Guravaiah and Vali replied that already the case filed by the sister of the accused is pending against Akkaiah and he can take initiative to compromise. Then, the accused turning his face towards *de-facto* complainant abused him in the name of caste. When the accused was sent out by LW.2 – Bhushanam, again the accused came there and turning his head towards him, abused him in the name of his caste. This is the sum and substance of Ex.P-1. So, even Ex.P-1 did not disclose that accused entered into any confrontation of verbal exchange against PW.1 either prior to the incident or after the incident. The gist of the allegation in Ex.P-1 is that accused turned his head towards PW.1 and abused him in the name of his caste in sexual words against females. So, undoubtedly, the allegations appear to be vague. It is not the allegation that accused entered

into the verbal exchange of words with PW.1 and abused him in the name of his caste. It is to be noticed that allegation in Ex.P-1 that accused made a proposal to Vali to compromise the case of one Guravaiah is nothing but vague. Ex.P-1 did not disclose the interest of the accused in the case of Guravaiah. On the other hand, the case of prosecution is that Akkaiah, brother of the PW.1, attacked Ramana, sister of the accused, and caused grave injuries for which he was tried and convicted for 5 years. Again, he was alleged to have attacked Ramana for which C.C. No.192 of 2004 was pending as on the date of offence. So, it is quite improbable that in such a situation accused would venture to make a proposal before PW.3 - Vali to get the case compromised of one Guravaiah. Here is a case that PW.3 did not support the case of prosecution in any way. So, virtually the evidence of PWs.1 and 2 is uncorroborated.

26. Now, it is a matter of appreciation as to whether such uncorroborated testimony of PWs.1 and 2 can be acted upon. There is no dispute that there were ill-feelings between the family of the accused and the family of PW.1 for the reason that the brother of PW.1 attacked the sister of the accused twice and caused injuries. So, it was a case of enmity between both the

parties. When the offence was alleged to be happened on 13.01.2008, report could be lodged on the next day *i.e.*, after 24 hours. Ex.P-1 did not disclose anything about the delay. PW.1 improved the evidence to the effect that when he went to Police Station on the same day Home Guard was present but SI of Police was not present. Accused got elicited from SI of Police during cross-examination *i.e.*, PW.7 that Police Station works round the clock and receives complaints, if any. So, prosecution did not elicit anything from the mouth of PW.7 that on 13.01.2008, none were present in the Police Station except the Guards, as such PW.1 could not lodge any report with the Police. According to PW.1 he went to the Police Station on the same day to give complaint. It is evident from Ex.P-1, report lodged by PW.1, that it did not show that it was prepared on 13.01.2008. On the other hand, PW.1 signed and put the date 14.01.2008 underneath his signature. So, it was prepared on 14.01.2008. It would have been prepared on 13.01.2008 itself, if really PW.1 went to the Police Station on the same day. So, it goes to prove that prosecution did not explain the delay in lodging Ex.P-1. As already pointed out, on account of the bitter animosity between the two families the possibility for due deliberations and concoctions cannot be ruled out. Apart from this, as this Court already pointed out, the gist of the offence

under Section 3(1)(x) of the SCs & STs Act is intentionally intimidating or insulting the scheduled caste people in the public view.

27. The Hon'ble Apex Court in **Hitesh Verma** (*supra*), clearly held that all insults or intimidations to the members of scheduled caste in any place within the public view attracts the offence under Section 3(1)(x) of the SCs & STs Act. The Hon'ble Apex Court further held that there is a difference between the public place and place in public view. Hon'ble Apex Court held that if an offence is committed outside the building and that is a lawn outside the house, it could be a place within the public view. On the contrary, if the offence is committed in a building then it would not be an offence since it is not in the public view.

28. Coming to the present case on hand, the Investigating Officer prepared rough sketch under Ex.P-10. He made markings as 1 to 6 and shows the place offence under 'X'. The place of offence under 'X' shows that it is in a building. If one has looked into the rough sketch of the scene of offence, it is in a building. So, the evidence is also lacking as to whether the place of offence is within the public view. Further, as this Court already pointed out, there were no exchange of words between PW.1 and the accused.

FIR did not disclose literally that accused directly abused PW.1. On the other hand, the conversation, according to Ex.P-1, was there between the accused and PW.3. PW.3 did not support the case of prosecution. As pointed out, prosecution miserably failed to explain the delay of 24 hours in lodging the report. In my considered view, there are serious infirmities in the case of the prosecution.

29. A perusal of the judgment of the Court below goes to reveal that though other witnesses did not support the case of the prosecution, the learned Special Judge took into consideration the evidence of PW.3 with regard to the presence of PW.1 and the accused at the hotel. This Court would like to make it clear that mere presence of PW.1 and the accused at the hotel of PW.3 would not prove the offence. The learned Special Judge gave a finding that the evidence of PWs.1 and 2 was not shaken in cross-examination. As pointed out by this Court, prosecution miserably failed to explain the delay. The prosecution failed to prove that the place of offence was within the public view. If rough sketch is looked into carefully, it is highly doubtful that the place of offence is within the public view. Apart from this, there were bitter ill-feelings between the two families. The prosecution did not prove

the interest of the accused in the case of Guravaiah. Hence, in such circumstances, there was no possibility for PW.1 to make a proposal to get the case compromised. With the finding that the evidence of PWs.1 and 2 is not shaken, the learned Special Judge believed the case of prosecution but did not appreciate the evidence on record by analyzing the facts and circumstances and looking into the aspect of delay. Having regard to the above, absolutely, the evidence on record warrants this Court to extend the benefit of doubt in favour of the accused. Hence, I hold that the prosecution has failed to prove the case against the accused before the Court below beyond reasonable doubt and the learned Special Judge on erroneous appreciation of the facts and evidence on record, recorded an order of conviction as such the impugned judgment is liable to be interfered with.

30. In the result, the Criminal Appeal is allowed by setting-aside the judgment in Sessions Case No.1 of 2009, dated 09.12.2009, on the file of the Court of Special Judge for trial of offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Prakasam Division, Ongole as such the accused is acquitted under Section 235(1) Cr.P.C.

Consequently, Miscellaneous Applications pending, if any,
shall stand closed.

JUSTICE A.V.RAVINDRA BABU

Date: 20.04.2023
DSH

Note: L.R. copy be marked.

B/o
PGR