

In the Court of Special Judicial Magistrate of First Class for trial of cases under
A.P.Prohibition and Excise Act, Ananthapuramu

Present:- Smt.S.Bhargavi, Spl.Judicial Magistrate of First Class for trial of cases under
A.P.Prohibition and Excise Act, Ananthapuramu

Friday, the 7th day of June, 2019

C.C.No.01/2019

Between:-

State Represented by the Sub-Inspector of Police,
Ananthapuramu Rural PS

...Complainant.

AND

Vadde Yerla Jayachandra, age 28 years,
S/o Ganganna, D.No.10/354,
Prajashakthi Nagar, Kakkalapalli Panchayat,
Ananthapuramu Rural Mandal.

...Accused

This case is coming for final hearing before me in the presence of APP for the state and of **Sri R.Harinatha Reddy and Sri E.Lakshmikanthaiah, Advocates** for accused and upon hearing both sides and having perused the material on record, this court delivered the following:

:: J U D G E M E N T ::

1. The Sub-Inspector of Police, Ananthapuramu Rural P.S filed charge sheet against the accused in Crime No.236/2014 for the offences punishable under Secs. 448, 427 IPC.
2. The case of the prosecution are that, about 12 years ago husband of LW1-Vadde Hemavathi was demised due to ill health. LW1-V.Hemavathi given her daughter i.e., PW2 marriage with the accused. Everyday she used to attend to duty at Srinivasa Hospital, Ananthapuramu and returned to home about 9-00 pm. Recently the accused purchased an auto for sending hires and registered in the name of PW2. On the request of LW1-V.Hemavathi, the accused hand over his auto one Chakali Bhaskar did not remitted hiring amount properly. In this regard the accused want to change the driver of his auto for hiring, but LW1-V.Hemavathi did not agree. In turn heated arguments were made between the accused and LW1-V.Hemavathi. In this issue kept on his mind the accused expressed his opinion with PW2 that, LW1-V.Hemavathi is pressuring to allow the Bhaskar as driver and he did not give hiring amount properly, if she did not register his auto in his name, he

would see her mother end. On saying that, the accused went to the house of LW1-V.Hemavathi, when LW1-V.Hemavathi absent inmates of the house, where the accused broke open the door locks and mischief by causing damage the T.V and house need articles. LW1-V.Hemavathi arrives to home and noticed the house need articles were pell-mell on the floor and T.V was damaged. But the complaint preferred a complaint against some other persons, as the suspected persons are made black magic previously due to which LW1-V.Hemavathi unknowingly gave a complaint against some other persons. As per the statement of PW1 to PW3 the accused established in this case.

On the complaint of LW1-V.Hemavathi, PW5- Head Constable registered a case in Cr.No.239/2014 U/s 448, 427 IPC of Ananthapuramu Rural PS, and investigation was taken up.

Soon after registering the case, PW5 examined LW1-V.Hemavathi and recorded her statement. PW5-Head Constable inspected the scene of offence and secured the presence of PW1 to PW3 and recorded their statements and seized broken glass pieces of the T.V under a cover of mahazarnama in the presence of LW5-Sake Sai Kumar and PW4 and drawn the rough sketch of the scene of offence.

As per the statement of PW1 to PW3 the prima facie case has been well established against the accused in this case.

On 21-1-2015 PW5 arrested the accused and released on bail.

LW8-SI of Police verified the investigation of PW5 and found it is on correct lines and filing of charge sheet. Hence the charge.

3. After filing charge sheet, this case was taken cognizance by the Addl. Judl. Magistrate of I class, Anantapuramu for the offence U/S.448, 427 IPC and numbered as C.C.628/2015. As per the proceedings of Hon'ble District and Sessions Judge, Ananthapuramu this case was transferred to this court and renumbered the same as C.C.01/2019.

4. On appearance of accused, the copies of case documents has been furnished to him as contemplated U/s 207 Cr.P.C.

5. The accused was examined u/s 251 Cr.P.C for the offences U/Ss.448, 427 IPC levelled against him, read over and explained to him in Telugu. He pleaded not guilty and claimed to be tried.

6. In order to prove the case, prosecution examined Pws.1 to 5 and got marked Ex.P1 to P8 on behalf of the prosecution. Memo filed by the police stating that LW1-V.Hemavathi and LW5-Sake Sai Kumar are whereabouts not known. Hence the evidence of LW1 and LW5 is closed. The learned APP gave up the evidence of L.W8-SI of Police as all relevant documents are marked through P.W.5.

7. After closure of the prosecution side evidence, on 21.5.2019, Accused is examined under Section 313 Criminal Procedure Code by explaining the incriminating evidence of prosecution in Telugu, for which they denied and reported no defence evidence.

8. Heard both sides and perused the material on record.

9. Now the point for determination:

“Whether the prosecution has proved the guilt of accused for the offences punishable U/Ss 448, 427, 506 IPC beyond all reasonable doubt?”

10. **Point:-**

PW.1 is an independent witness, deposed that she does not know about the quarrel took place in between LW1-V.Hemavathi as she never witnessed the same. She does not know any other facts of this case. PW1 did not support the case of prosecution.

11. PW2 is the witness to the incident, deposed that she does not know about the quarrel took place in between accused and LW1-V.Hemavathi. She never witnessed any incident concerned to this case. She does not know any other facts of this case. PW2 did not support the case of prosecution.

12. PW3 is the independent witness to the incident, deposed that she does not know about the quarrel took place in between accused and LW1-V.Hemavathi. She never witnessed accused about quarreling with his mother-in-law on any issue. She does not know any other facts of this case. PW3 did not support the case of prosecution.

13. PW4 is the mahazardar, deposed that Ananthapuramu Rural police never observe any scene of offence in his presence and did not seize any incriminating material in his presence. In the year 2014, police obtained his signatures on some written papers. He does not know its contents. Ex.P.4 is signature of PW4 on the mahazar. PW4 did not support the case of prosecution.

14. PW5 is the investigating officer, deposed that on 9-9-2014 at 11-00 am, he was present in the police station PW1 came and gave written complaint, basing on the same he registered a case in Cr.No.239/2014 U/s 448, 427 IPC and issued FIR under Ex.P5. He can identify the complaint given by LW1 and witness identified the said complaint given by LW1 and it is marked as Ex.P6. He examined LW1 at station itself and recorded her statement. On the same day he visited Prajasakthi nagar, Ananthapuramu secured the presence of Pws.1 to 3, examined them and recorded their statements. On the same day he inspected the scene of offence situated in the hut of LW1, observed the same and seized some glass pieces and plastic pieces of the broken TV under the cover of mahazar in the presence of PW4 and LW5-Sake Saikumar. The mahazar dated 9-9-2014 at 2-00 pm is marked as Ex.P7. He drawn rough sketch of the scene of offence under Ex.P8. Broken glass pieces and plastic pieces of TV are marked as MO.1. On 21-1-2015 he effected the arrest of accused and enlarged him on bail. LW8-SI of police, Ananthapuramu Rural PS verified his investigation, found it on correct lines and after completion of his investigation he laid charge sheet in this case.

15. After examination of PW.1 to PW4 and cross examined PW.1 to PW4, but nothing was elicited from their mouth to support the case of prosecution. The statements of PW.1 to 3 are marked as Ex. P.1 to Ex.P3. The signature of PW4 on the mahazar, dated 9-9-2014 is marked as Ex.P4.

16. In such facts and circumstances, the court finds no incriminating material to hold that the accused went to the house of LW1-V.Hemavathi, when LW1-V.hemavathi absent inmates of the house, where the accused broke open the door locks and mischief by causing damage the T.V and house need articles, LW1-V.Hemavathi arrives to home and noticed the house need articles were pell-mell on the floor and T.V was damaged. In other words, the prosecution failed to establish that the guilt of Accused for the offences punishable Under Sections 448, 427 of Indian Penal Code.

17. In view of the foregoing discussion, I hold that the prosecution failed to establish the guilt against Accused for the offences punishable Under Sections 448, 427 of Indian Penal Code. Accordingly Accused is entitled for acquittal.

18. In the result, the accused is found not guilty of the offence punishable U/ss 448, 427 IPC and he is acquitted U/s 255 (1) Cr.P.C. The bail bonds of accused shall remain in force till six months as per the provisions of Section 437-A Cr.P.C. The MO.1 i.e., broken glass pieces and plastic pieces of TV board shall be destroyed after appeal time.

Directly typed to my dictation by the Personal Assistant, corrected and pronounced by me in open court this the 7th day of June, 2019.

Sd/-S.Bharvavi
Spl.Judl Magistrate of First Class,
Prohibition and Excise cases,
Ananthapuramu.

Appendix of evidence
Witnesses examined for

Prosecution

PW.1: Boya Chandrakala
PW.2: Anitha
PW.3: Latha
PW.4: Baba Fakruddin
PW.5: GV.Ramana Reddy

Defence

None

Exhibits marked for

Prosecution.

Ex.P.1: Sec.161 CrPC statement of PW1.
Ex.P.2: Sec.161 CrPC statement of PW2.
Ex.P3: Sec.161 CrPC statement of PW3.
Ex.P4: Signature of PW4 on the mahazar dated 9.9.2014 at 2-00 pm.
Ex.P5: FIR.
Ex.P6: Complaint given by LW1.
Ex.P7: Mahazar dated 9-9-2014 at 2-00 pm.
Ex.P8: Rough sketch.

Defence

-Nil-

Material Objects

MO.1: Broken glass pieces and plastic pieces of TV.

Sd/-Bhargavi
SJFCM

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CALENDAR AND JUDGMENT

District :: ANANTHAPURAMU.

CALENDAR CASES TRIED IN THE COURT OF SPECIAL JUDICIAL FIRST CLASS MAGISTRATE FOR PROHIBITION AND EXCISE CASES, ANANTAPURAMU.

Date of Offence	Report or Complaint	Apprehension of accused	Released on bail	Commencement of trial	Close of trial	Sentence Order
8.9.14	9.9.14	21.1.15	21.1.15	26.4.19	17.5.19	7.6.19

Calendar and Judgment in **C.C.No.01/2019** on the file of Special Judicial First Class Magistrate for Prohibition and Excise Cases, Ananthapuramu.

Complainant: State Represented by the Sub-Inspector of Police,
Ananthapuramu Rural PS

Crime No: 236/2014

Name of the Accused	Age	Father's or Husband's Name	Religion	Calling	Residence	Mandal
Vadde Yerla Jayachandra	28 yrs	Ganganna	Hindu	Coolie	D.No.10/354, Prajasakthi Nagar, Kakkalapalli Panchayat	Ananthapuramu Rural

Offence: U/Secs.448, 427 IPC.

Finding: Not guilty.

Sentence: In the result, the accused is found not guilty of the offence punishable U/ss 448, 427 IPC and he is acquitted U/s 255 (1) Cr.P.C. The bail bonds of accused shall remain in force till six months as per the provisions of Section 437-A Cr.P.C. The MO.1 i.e., broken glass pieces and plastic pieces of TV board shall be destroyed after appeal time.

Explanation for delay: On 15.2.19 accused were examined under Section 239 Cr.P.C. During the course of trial, PW.1 to PW5 were examined and marked Ex.P1 to P6. On 6.3.2019 Judgment pronounced. Hence, the delay.

Sd/-S.Bhargavi

Spl.Judl Magistrate of First Class for trial of cases under A.P.Prohibition and Excise Act-cum-III Addl Junior Civil Judge, Ananthapuramu

Copy submitted to the Hon’ble I Addl. Sessions Judge, Anantapuramu.

Copy to the Superintendent of Police, Anantapuramu.

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