

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF FIRST CLASS
AT THORRUR.**

Present: Smt. Shanker Sridevi,
Judicial Magistrate of First Class,
Thorrur.

Wednesday, the 13th day of July, 2016.

CC.No.1 OF 2014.

Between :

The State through Sub-Inspector of Police,
P.S. Rayaparthi.

... Complainant.

A N D

Galibu Sambaiah, S/o. Rajeeru,
Aged: 50 years, Caste: Mudiraj,
Occu: Agriculture, R/o. Rayaparthi.

... Accused.

This case is coming before me on 13-07-2016 for final hearing in the presence of learned A.P.P. for the State and V. Madhu Sudhan, Advocate for the accused and having been heard and having stood over for consideration to this day, the Court delivered the following :

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

1. The Sub-Inspector of Police, P.S. Rayaparthi, filed charge sheet against the Accused for the offence punishable u/S. 326 of I.P.C. in Crime No.207 of 2013.

2. The case of the prosecution is that on 7-11-2013 at 1300 hours the defacto-complainant Galibu Raju came to the Police Station and lodged complaint stating that on 6-11-2013 all his family members went to the house of his paternal uncle Sodepu Rammurthy to attend function and on the same day they returned to home and during night time, the complainant went to Perikedu village by taking his auto trolley as the same was engaged for hire and while leaving his house, he observed that his father Galibu Sambaiah under drunken condition and thereafter he came to know that in his absence his

father beat his mother with pestle and caused injuries to the back side of head, left jaw, right shoulder for reason she did not cook the rice properly and his younger sister tried to rescue her mother but his father also pushed her and as his mother fell unconscious she was taken to the Government Civil Hospital, Wardhannapet, in 108 ambulance and knowing the said incident, he went to the said hospital and upon the advice of the Doctors he shifted his mother to MGM Hospital, Warangal, for better treatment and hence he lodged complaint for taking necessary action against his father.

3. On the basis of above report, the Sub-Inspector of Police/LW-10 has registered a case in Crime No.207/2013 and issued First Information Report and after completion of entire investigation he filed charge sheet against the Accused for the offence punishable u/S. 326 of I.P.C.

4. The case was taken cognizance for the offence punishable u/S. 326 of I.P.C. against the Accused. On appearance of the accused, the copies of the charge sheet and other documents are furnished to the accused as contemplated u/S.207 of Cr.P.C.

5. Accused has been examined U/s.239 of Cr.P.C. with the allegations that are made against him in the charge sheet for which he denied the said allegations, pleaded not guilty and claimed to be tried. Hence, the Charges u/S. 326 of I.P.C. has been framed against the Accused.

6. During the course of trial to prove its case, the prosecution has examined PW's.1 to 6. As the material witnesses turned hostile, the

learned APP has given up the examination of remaining listed witnesses. Hence, the prosecution evidence is closed.

7. After closure of the Prosecution evidence, the examination of the Accused U/s.313 Cr.P.C. is dispensed with as there is no incriminating evidence found against the Accused.

8. Heard both sides. Perused the material placed on record.

9. Now the point for determination is :

“Whether the prosecution has proved the guilt of the Accused for the offence punishable u/S. 326 of I.P.C. beyond all reasonable doubt”?

10. The burden of proof is on the prosecution to prove the guilt of the Accused for the offence punishable u/S. 326 of I.P.C. beyond all reasonable doubt and in this regard the prosecution has examined PW's.1 to 6 and got marked Ex.P1 to P7.

11. PW-1/Galibu Raju, the defacto-complainant, deposed in his chief examination that about three years back in the month of November 2013 he along with his family members went to the house of his paternal uncle namely S. Rammurthy to attend a function by engaging an auto trolley and returned to home and as his father was in drunken state he left to home and on the next day his mother who hospitalized informed him that she sustained injury but she did not reveal that as to how she sustained said injury. PW1 further deposed that while his mother was taking treatment in the hospital, the police came to him and obtained his signature on some written papers and Ex.P1 is his signature on the report and he do not know the contents

of the same and he did not lodge any complaint against his father who is the accused herein and under drunken condition his father always quarrels with his mother but he never beat his mother at any point of time. The prosecution treated PW.1 as hostile and cross examined him with the prior permission of the Court, but failed to elicit anything in support of the prosecution case. PW1 denied the suggestion that he stated before the Police as in Ex.P2.

12. PW-2/Galibu Mangamma, the mother of PW1 and wife of accused, deposed in her chief examination that in the month of November, 2013 the accused who is her husband returned to her house under drunken condition and raised dispute with her as she did not cook food properly. PW2 further deposed that while doing the household work, she fell down and sustained injury on her head and the accused never beat her with pestle at any point of time. The prosecution treated PW.2 as hostile and cross examined her with the prior permission of the Court, but failed to elicit anything in support of the prosecution case. PW2 denied the suggestion that she stated before the Police as in Ex.P3.

13. PW-3/Galibu Rani and PW-4/Galibu Ashok, who are the younger sister and younger brother of PW1 respectively, deposed in their chief examination that in the month of November, 2013 they came to know that his father under drunken condition quarreled with their mother and their father quarrels with their mother but he never beat their mother at any point of time and they do not know any facts of the case. The prosecution treated PW.3 and PW.4 as hostile and cross

examined them with the prior permission of the Court, but failed to elicit anything in support of the prosecution case. PW.3 and PW.4 denied the suggestion that they stated before the Police as in Ex.P4 and Ex.P5.

14. PW-5/M. Sudhakar and PW-6/S. Bixapathi, who are the panch witnesses for confession and seizure panchanama, deposed in their chief examination that about three years back when they went to police station on personal work, the police obtained their signatures on some papers and to oblige the police they put their signatures on those papers and except this they do not know any facts of the case and Ex.P6 and Ex.P7 are their signatures on confession-cum-seizure panchanama. The prosecution treated PW.3 and PW.4 as hostile and cross examined them with the prior permission of the Court, but failed to elicit anything in support of the prosecution case. PW.5 and PW.6 denied the suggestion that they stated before the Police as in Ex.P6 and Ex.P7.

15. In the instant case as stated above, as PW's.1 to 6 turned hostile to the prosecution case and the evidence of the remaining listed witnesses is given up by the learned A.P.P. and hence the prosecution evidence is closed. In such circumstances only the evidence of PWs.1 to 6 is available to determine the guilt of the Accused for the accusations leveled against him. As PWs.1 to 6 did not support the case of the prosecution, the evidence on record is found not sufficient to prove the guilt of the Accused for the alleged accusations against them and in fact none of the witnesses spoke

with regard to the involvement of the accused in the commission of the said offence. Hence, the prosecution has failed to prove the guilt of the Accused for the offence punishable u/S. 326 of I.P.C. beyond all reasonable doubt and hence the Accused are entitled for acquittal. The point is answered accordingly.

16. In the result, the Accused is found not guilty for the offence u/S. 326 of I.P.C. and hence he is acquitted u/S.248(1) Cr.P.C. for the said offence. The bail bonds of Accused shall stands cancelled after expiry of Appeal time.

Typed to my dictation directly on computer and pronounced by me in the open Court on this the 13th day of July, 2016.

Sd/-
**Judicial Magistrate of First Class,
Thorrur.**

APPENDIX OF EVIDENCE **WITNESSES EXAMINED**

For the Prosecution :

PW1 – Galibu Raju
PW2 – Galibu Mangamma
PW3 – Galibu Rani
PW4 – Galibu Ashok
PW5 – Mandala Sudhakar
PW6 – Sidda Bixapathi

For the Defence :

–None–

EXHIBITS MARKED

Ex.P1 : Signature of PW1 on Complaint.
Ex.P2 : 161 Cr.P.C. Statement of PW-1.
Ex.P3 : 161 Cr.P.C. Statement of PW-2.
Ex.P4 : 161 Cr.P.C. Statement of PW-3.
Ex.P5 : 161 Cr.P.C. Statement of PW-4.
Ex.P6 : Signature of PW-5 on confession-cum-seizure panchanama.
Ex.P7 : Signature of PW-6 on confession-cum-seizure panchanama.

Sd/-
**Judicial Magistrate of First Class,
Thorrur.**

CALENDER EXTRACT

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF FIRST CLASS
AT THORRUR.**

CALENDER CASE NO. 1 OF 2014.

01. Name of the Police Station :: Rayaparthi
02. Crime Number :: 207/2013
03. Offence :: u/S. 326 IPC
04. Name of the accused :: Galibu Sambaiah
05. Date of :
- | | |
|----------------------------|---------------|
| a) Date of offence | :: 06-11-2013 |
| b) Date of Complaint | :: 07-11-2013 |
| c) Date of Apprehension | :: 22-11-2013 |
| d) Date of Release on bail | :: 22-11-2013 |
| e) Commencement of trial | :: 15-06-2016 |
| f) Close of trial | :: 13-07-2016 |
| g) Date of Judgment | :: 13-07-2016 |

f) **R E S U L T :** In the result, the Accused are found not guilty for the offence u/S. 326 of I.P.C. and hence he is acquitted u/S.248(1) Cr.P.C. for the said offence. The bail bonds of Accused shall stands cancelled after expiry of Appeal time.

06. Explanation for delay :: Due to non-production of the witnesses in time, the delay is caused in disposal of this case.

Dis.No.

Date:

**JUDICIAL MAGISTRATE OF FIRST CLASS,
THORRUR.**

To
The Hon'ble I-Addl. District and Sessions Judge,
Warangal.