

THE HON'BLE SMT. JUSTICE ANIS
CRIMINAL REVISION CASE No.285 OF 2007

ORDER:

This criminal revision, under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), is filed by the revision petitioner herein against the Judgment delivered by the I Additional District and Sessions Judge, Karimnagar, on 29.08.2006, in Criminal Appeal No.77 of 2006, whereby and whereunder the learned Sessions Judge confirmed the Judgment dated 30.01.2006, passed in Sessions Case No.103 of 2002 by the Assistant Sessions Judge, Peddapally, wherein the learned Assistant Sessions Judge found the accused guilty for the offence under Section 354 of the Indian Penal Code, 1860 (for short, 'I.P.C.'), convicted and sentenced the revision petitioner/ accused to undergo Rigorous Imprisonment for a period of five years and to pay a fine of Rs.500/-, in default of payment of fine amount the accused shall suffer Simple Imprisonment for a period of three months.

02. The revision petitioner herein is the accused and the respondent herein is the State in S.C. No.103 of 2002.

03. The brief facts of the prosecution case are that on 18.11.2000 at about 8.30 A.M. P.W.1 boarded an auto bearing No. AP 15 T 5854 to go to her school at Godavarikhani; the accused, who was driving the said auto, misled the route towards filter bed of Ganganagar, on the way P.W.1 questioned him, for which he replied that he did not wear the uniform as such the Police will book a case against him and therefore he intends to wear uniform and on the way he stopped the auto near filter bed and caught hold the hands of P.W.1 and asked to satisfy his lust; thereby she raised hue and cries and on hearing the same, P.W.2 and others

came there, on seeing them the accused fled away from the scene. On the complaint, the Police registered a case in Crime No.135 of 2000, investigated into and filed charge sheet against the accused.

04. The learned Assistant Sessions Judge framed the Charge against the accused under Section 354 I.P.C., read over and explained to him in telugu, but he pleaded not guilty.

05. During the course of trial, on behalf of the prosecution, P.Ws.1 to 4 were examined and Exs.P.1 to P.4 were marked. On behalf of the accused, no defence was adduced.

06. The learned Assistant Sessions Judge, after considering the evidence on record, found the accused guilty for the offence punishable under Section 354 I.P.C., convicted and sentenced to undergo for a period of five years and to pay fine of Rs.500/-. Aggrieved by the conviction Judgment of the learned Assistant Sessions Judge, the revision petitioner preferred Criminal Appeal No.77 of 2006 before the Court of Sessions. The I Additional Sessions Judge, Karimnagar, dismissed the appeal confirming the sentence and conviction passed by the Assistant Sessions Judge in S.C. No.103 of 2002. Aggrieved thereby, the revision petitioner preferred the present revision.

07. Learned counsel for the petitioner submitted that the petitioner is an innocent, did not commit the offence, and since 31 months, the petitioner was in Jail. He further submitted that the petitioner is not habitual offender and therefore, he seeks a lenient view to give set off for punishment already undergone.

08. Learned Public Prosecutor for the State of Telangana urged that the learned Sessions Judge as well as the appellate court gave concurrent finding against the accused and the said finding needs no interference and prayed to dismiss the revision.

09. Now the point that arise for consideration is, whether the finding given by the I Additional Sessions Judge in Criminal Appeal No.77 of 2006 needs interference?

POINT:

10. A perusal of the evidence on record shows that P.W.1 is the *de facto* complainant. She lodged a complaint with the police on 18.11.2000 stating that on the same day at about 8.30 A.M. she boarded the auto of the accused to go to school, the accused miss-led the route and took the auto towards filter bed of Ganganagar on the pretext that he intends to wear uniform to avoid police case, thereafter he stopped the auto near filter bed and caught hold the hands of the *de facto* complainant and asked her to satisfy his lust, thereby raise hue and cries, thereby P.Ws.2 and others came; on seeing them the accused ran away from the scene. The evidence of P.Ws.1 to 4 is corroborated with each other and also with the evidence of investigation officer.

11. Upon perusing the evidence on record, the learned Assistant Sessions Judge as well as the learned Sessions Judge rightly gave concurrent finding. Therefore, the finding of both the Courts needs no interference.

12. It is submitted by learned counsel for the petitioner that the revision petitioner is not habitual offender, is a poor person, as such he defends his case through legal aid counsel, the petitioner is a sole bread winner of the family. Taking into consideration of the submissions of learned counsel for the petitioner and on going through the record, since the petitioner undergone imprisonment for a period of 31 months, the sentence of imprisonment imposed by the learned Assistant Sessions Judge in S.C. No.103 of 2002 is hereby modified and reduced to 3 years.

The sentence of fine is not interfered with. The period of imprisonment already suffered by the revision petitioner is directed to be given set off.

13. Accordingly, the criminal revision is disposed of.

14. Miscellaneous petitions, if any, pending in this criminal revision shall stand closed.

ANIS, J

26-02-2015

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