

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Crl.A.No.421 of 2015

JUDGMENT:

This Criminal Appeal is filed challenging the judgment dated 02.02.2009 in S.C.No.163 of 2007 of the Assistant Sessions Judge, Gudur, acquitting the respondent/accused for having committed the offences punishable under Sections 448 and 354 IPC.

2. The case of the prosecution is that PW.1 was a physically handicapped girl and she resides opposite the house of the accused. There were also some disputes between the accused and the family members of PW.1 with regard to land. On 12.02.2006 at about 03.00PM when PW.1 was cleaning the premises of their house with a broom, the accused came from behind, embraced her and expressed his evil desire; that he push her down and further asked her that he will give money to fulfil his desire. According to the prosecution, PW.1 screamed and on hearing her screaming one Sk. Shahida came from her house and on seeing her, the accused left the premises and went to his house. Further the case of the prosecution is that PW.4-Sk.Najunni was also coming towards her house and she informed her about the incident. As her brother-PW3 and mother, PW.2 went for their work and returned late in the evening, she informed them about the incident and then on the next day Ex.P.1-report was given by PW.1.

3. Complaint under Section 448 and 354 IPC was registered as Crime No.12 of 2006 and investigation was done. Thereafter, charge sheet was filed alleging that the accused committed the said offences.

4. After framing of the charges, they were read over and explained to the accused. The accused pleaded not guilty and claimed to be tried.

5. The prosecution examined PWs.1 to 6 and marked Exs.P.1 to P.4.

6. After completion of the prosecution evidence, the accused was examined under Section 313 Cr.P.C. and he denied the same.

7. On consideration of the evidence on record, the Court below acquitted the accused.

8. Questioning the same, this Criminal Appeal is filed.

9. Learned Public Prosecutor representing the State contended that the evidence on record amply establishes the guilt of the accused and therefore, the trial Court erred in acquitting the accused of the above charges.

10. The prosecution had not examined Sk.Sahida, who is material witness and direct witness to the events, which took place after the incident. PW.4, who is said to be a friend to PW.1 as well as tenant of PW.1 did not support prosecution. In cross- examination, she denied the suggestion that she had stated before the police that the accused tried to outrage the modesty of PW.1. She also stated that there were disputes between PW.1 and accused with regard to a manure pit and frequent quarrels between the family members of PW.1 and the family members of the accused. Therefore, the case of the prosecution that Sk Sahida came to the house of PW.1 at the time of the incident, on hearing her cries the accused left the premises, could not be established. PWs.2 and 3 are not eye witnesses to the incident.

11. Having regard to the facts and circumstances, it cannot be said that the prosecution had established guilt of the accused for the above charges beyond reasonable doubt.

12. Therefore, I do not find any merit in the Criminal Appeal and the same is accordingly dismissed.

13. As a sequel, miscellaneous petitions pending, if any, shall stand disposed of.

JUSTICE M.S.RAMACHANDRA RAO

Date: 01.04.2015

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