

THE HON'BLE SRI JUSTICE RAJA ELANGO

Crl.A.M.P.No.1517 of 2015

&

CRIMINAL APPEAL No.512 of 2013

JUDGMENT:

The above Criminal Appeal is filed by the appellant-accused against the conviction and sentence imposed by the Sessions Judge, Mahila Court, Visakhapatnam, in S.C.No.117 of 2011, vide judgment, dated 14.06.2013.

The case of the prosecution in brief is as follows:

The accused is working as a Male Nursing Orderly (MNO) in the King George Hospital, Visakhapatnam. The victim woman – G. Parvathi (LW-2) was admitted in the said Hospital for delivery. On the intervening night of 16/17.02.2010 at 1.15 a.m., caesarian operation was conducted to her and thereafter, the baby was shifted to incubator and while she was on bed, and when the assistants went outside, the accused demanded Rs.1,000/- from the victim and thereafter, he tried to outrage her modesty. The victim informed the same to her mother-in-law, who in turn informed the same to the Superintendent of the Hospital. The Superintendent forwarded the written report issued by the victim, to the police. The police took up investigation and arrested the accused. After completion of the investigation, charge sheet was filed.

The learned trial Judge framed charges for the offences under Sections 354 and 161 IPC against the accused, read over and explained to him, for which he pleaded not guilty and claimed to be tried.

During the course of trial, P.Ws.1 to 10 were examined and Exs.P1 to P15 were marked on behalf of the prosecution. No oral or documentary evidence was adduced on behalf the accused.

On appreciation of oral and documentary evidence, the trial Court having found the accused guilty of the offence under Section 354 IPC, convicted and

sentenced him to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.1,000/- in default to suffer simple imprisonment for a period of three months, and acquitted him for the offence under Section 161 IPC. Aggrieved by the conviction and sentence imposed by the trial Court, the appellant-accused filed the present appeal.

When this matter has come up for hearing, the above Crl.M.P. is filed along with an affidavit of PW2-victim woman, seeking to compound the case. It is stated in the affidavit that the matter was settled at the intervention of the elders and well-wishers and therefore, she is not intending to proceed further against the appellant and she has no grievance against him. The appellant and the de facto complainant, who appeared before this Court, submitted through their respective Counsel that they entered into compromise and therefore, the compromise may be recorded and the appellant-accused may be acquitted for the offence under Section 354 IPC.

In the light of the facts and circumstances involved in the present case and particularly in view of the settlement arrived at in the present case and the dictum laid in *Gian Singh Vs. State of Punjab and another*, this Court is of the view that as the parties to the dispute settled the issues amicably, it is a fit case wherein the conviction and sentence imposed by the trial Court on the appellant-accused can be set aside.

In the result, the Crl.M.P.No.1517 of 2015 is ordered and the Criminal Appeal is allowed setting aside the conviction and sentence imposed by the Sessions Judge, Mahila Court, Visakhapatnam, in S.C.No.117 of 2011, vide judgment dated 14.06.2013, for the offence under Section 354 IPC. Consequently, the appellant-accused is acquitted for the said charge. The fine amount, paid if any, shall be refunded to him. Bail bonds shall stand cancelled and the sureties are discharged.

Miscellaneous petitions, pending if any, shall stand closed.

RAJA ELANGO, J

October 29, 2015.

KTL

