

THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

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Crl.A.No.210 of 2006
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JUDGMENT

This Criminal Appeal is filed by the State seeking enhancement of sentence imposed on the respondent in Sessions Case No.327 of 2004 by the Principal Assistant Sessions Judge, Tenali, Guntur District.

2. The respondent was the sole accused in Sessions Case No.327 of 2004 and charge sheet was filed against him alleging that he committed offence under Section 376 read with 511 IPC. After trial, the Sessions Court acquitted him under Sections 376 and 511 IPC but convicted under Section 354 IPC. The Court below imposed a sentence of rigorous imprisonment for five months only along with fine of Rs.200/- on the respondent. As the sentence imposed on the respondent by the Court below is less than a minimum sentence of two years as prescribed in AP Amendment Act 6 of 1991, this Criminal Appeal has been filed by the State.

3. Section 354 IPC as amended by Act 6 of 1991 states:

“354. Assault or criminal force to woman with intent to outrage her modesty.-Whoever assaults or uses criminal force to any woman intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years and shall also be liable to fine:

Provided that the court may for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment of either description for a term which may be less than five years but which shall not be less than two years.

4. It is not disputed by both sides that subsequently by

Act 13 of 2013, Section 354 IPC was amended by Parliament and the period of imprisonment is altered. The amended Section 354 IPC (by the Central Amendment Act 13 of 2013) is as follows:

“354. Assault or criminal force to woman with intent to outrage her modesty.-Whoever assaults or uses criminal force to any woman intending to outrage or knowing it to be likely that he will thereby outrage her modesty. {shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine}:

5. In view of the Central amendment to Section 354 IPC, the AP State Amendment Act thereto stand superseded.

6. Since the sentence imposed by the Court below is only rigorous imprisonment for five months, it cannot be sustained because as per amended Section 354 IPC, the punishment cannot be for a period less than one year.

7. According to the learned counsel for the respondent, in fact, there was no evidence at all even to sustain the conviction under Section 354 IPC but that contention cannot be acceded to because no appeal has been filed by the accused questioning his conviction.

8. Although the learned Public Prosecutor contended that a sentence of more than one year needs to be imposed on the respondent, in view of his conviction under Section 354 IPC, in the facts and circumstances of the case and having considered the evidence on record, I am of the opinion that interest of justice would be met if the respondent is sentenced to rigorous imprisonment for a period of one year. The sentence already undergone by him shall be set off against it. The sentence of fine of Rs.200/- imposed by the Court below remains unaltered.

9. Accordingly, the Criminal Appeal is allowed in part.

10. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date : 29-04-2015

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