

HON' BLE SRI JUSTICE RAJA ELANGO

CrI.R.C.M.P.(SR) Nos.8460 & 9211 of 2016 AND 8458 & 9212 of 2016
IN/ AND
CRIMINAL REVISION CASE No.1135 of 2007

ORDER:

The above Criminal Revision Case is filed by the petitioners-accused Nos.2 and 3 against judgment, dated 13.08.2007, passed in CrI.A. No.108 of 2005 by the IV Additional Sessions Judge, (Fast Track Court) Tanuku, West Godavari District, whereby the learned Sessions Judge confirmed the conviction and sentence imposed by the Assistant Sessions Judge, Tanuku, West Godavari District, in S.C.No.319 of 2003, vide judgment, dated 12.05.2005, whereby the learned Assistant Sessions Judge found the petitioners guilty of the offence under Section 354 IPC and convicted and sentenced them to undergo rigorous imprisonment for a period of five (5) years each and to pay a fine of Rs.1,000/-each, in default, to suffer simple imprisonment for three (3) months each.

The case of the prosecution in brief is as follows:

That on 02.03.2003 evening, the victims – respondents 2 and 3 boarded the auto of the petitioners near Sri Kesava Swami Temple, Tanuku, after attending their college anniversary day at SKSD College for Women, Tanuku. While the auto was proceeding towards Tadiparru on the way, the petitioners and A1, with a malicious intention, diverted the auto into Mallinaripuntha at about 9.00 p.m., and stopped the auto in an isolated place and made an attempt to outrage the modesty of the victims. But, the victims escaped from the clutches of the accused and reached their houses with the help of their villager - LW.3. They informed about the incident to their fathers, who inturn lodged a complaint before the police, Undrajavaram and the police registered the same as Crime No.20 of 2003 for the offence under Section 376 r/w.511

r/w.34 IPC. The accused were arrested on 03.03.2003 at 1-45 am and were sent to judicial remand. After completion of investigation, the police filed charge sheet.

The II-Additional Judicial Magistrate of First Class, Tanuku committed the case to the Court of Sessions after complying with the provisions of Section 207 Cr.P.C., and thereafter, the case was made over to the trial Court for disposal in accordance with law. On appearance of the petitioners and A1, the charge under Section 354 IPC was read over and explained to them, for which they pleaded not guilty and claimed to be tried.

During the course of trial, P.Ws.1 to 11 were examined and Exs.P1 to P5 were marked on behalf of the prosecution. No oral evidence was adduced, but Ex.D.1 was marked on behalf of the accused.

On appreciation of the oral and documentary evidence, the trial Court having found the petitioners and A1 guilty for the offence under Section 354 IPC, convicted and sentenced them to undergo rigorous imprisonment for a period of five (5) years each and to pay a fine of Rs.1,000/- each, in default to suffer simple imprisonment for a period of (3) months each. Aggrieved by the conviction and sentence imposed by the trial Court, the petitioners and A1 filed CrI.A. No.108 of 2005 before the IV Additional Sessions Judge, Tanuku. The learned Sessions Judge, after re-appreciating the evidence on record, dismissed the appeal by confirming the conviction and sentence recorded by the trial Court, vide judgment impugned. Challenging the same, the petitioners – A2 and A3 filed the present revision.

When this matter has come up for hearing, the learned counsel for the petitioners submitted that on an earlier occasion the respondents 2 and 3 filed the above CrI.R.C.M.Ps. through their GPA holders before this Court, seeking permission to compound the case. The GPA holders

of respondents 2 and 3 and the petitioners are present before this Court and they are identified by their respective counsel. When asked by this Court, the GPA holders of respondents 2 and 3 informed that they have settled the issue before the elders and therefore, they do not intend to proceed further in the matter and they have no grievance against the petitioners and requested that the compromise may be recorded and the petitioners – A2 and A3 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, this Court is of the view that as the parties to the dispute have settled the issues amicably, it is a fit case wherein the conviction and sentence imposed by the trial Court, as confirmed by the lower appellate Court, on the petitioner – A1 can be set aside.

In the result, the CrI.R.C.M.P.(SR) Nos.8460 & 9211 of 2016 and 8458 & 9212 of 2016 are ordered and the Criminal Revision Case is allowed setting aside the conviction and sentence imposed against the petitioners – A2 and A3 for the offence under Section 354 IPC, by the Assistant Sessions Judge, Tanuku, in S.C.No.319 of 2003, vide judgment dated 12.05.2009, as confirmed by the IV Additional Sessions Judge, (FTC), Tanuku, in CrI.A. No.108 of 2005 vide judgment, dated 13.08.2007. Consequently, the petitioners – A2 and A3 are acquitted for the said charge. The fine amount, paid if any, shall be refunded to them. Bail bonds shall stand cancelled and the sureties are discharged.

Miscellaneous petitions, pending if any, shall stand closed.

RAJA ELANGO, J

August 08, 2016.

KTL