

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.1793 OF 2007

JUDGMENT:

This Criminal Appeal, under Section 378(3) & (1) of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), is filed by the State against the judgment, dated 6.12.2005, in C.C.No.2208 of 2000 on the file of the Additional Judicial First Class Magistrate at Chodavaram whereunder and whereby, respondent/accused was found not guilty of the offence punishable under Section 342 I.P.C. and accordingly, acquitted for the said offence under Section 255(1) Cr.P.C.

2. Case of the prosecution, in brief, is as follows:

On 28.9.2000, in the morning hours, L.Ws.1 to 3 – Vemana Satyaraao, Saragadam Atchimnaidu and Midatada Ramaraao visited Chukkapalli Village to make tom tom in the village that none should sell or purchase the property of one Sunkara Rudri, Ex-Secretary, P.A.C.S., Vechalam under the orders of L.W.4 – Adari Sanyasinaidu and they met L.W.5 – Jajimoggla Satyanarayana Murthy, V.A.O. and obtained permission to make tom tom in the village and L.W.5 instructed L.W.6 - P.Bangari to make tom tom in the village and after completion of tom tom in the village, the accused came to L.Ws.1 to 3 at about 11:00 hours and wrongfully confined them in Lord Anjaneyaswamy Temple in the village and locked the doors from outside on the plea as to who gave them right to make tom tom in the village and after four hours, the accused released L.Ws.1 to 3 by taking written report that under whose orders they made tom tom in the village and thereafter,

L.Ws.1 to 3 went to L.W.4 and notified the incident and thereafter, L.W.4 lodged a report to Cheedikada Police Station and L.W.8 – Sub-Inspector of Police, Cheedikada Police Station registered the case and he visited the scene of offence and examined the witnesses. After completion of investigation, he filed charge sheet.

3. The case was taken on file under Section 342 I.P.C. by the learned Magistrate against the accused on 31.10.2000.

4. On appearance of the accused, he was examined under Section 251 Cr.P.C. on 29.10.2001 and he denied the prosecution allegations for which, he pleaded not guilty and claimed to be tried.

5. To substantiate the case of the prosecution, P.Ws.1 to 6 were examined and Exs.P-1 to P-4 were got marked.

6. After closure of the evidence on the prosecution side, the accused was examined under Section 313 Cr.P.C. He denied the evidence on the side of the prosecution and reported no defence on his behalf.

7. The learned trial Judge, basing on the evidence adduced and after elaborate discussion, found the accused not guilty of the offence under Section 342 I.P.C. and accordingly, acquitted him. Challenging the same, the State filed the present appeal.

8. Heard and perused the material available on record.

9. The allegation against the accused is that when P.Ws.1 and 2 and M.Rama Rao (L.W.3) went to Chukkapalli Village to make tom tom and attach the properties of Sunkara Rudri, he detained P.Ws.1 and 2 in Anjaneyaswamy temple. If such is the case,

P.Ws.1 and 2 ought to have produced any document or piece of paper to show that they visited that village in order to make tom tom and attach the properties of Sunkara Rudri, but the same was not done. When such an important document is not produced, the presence of the accused in that village at that relevant point of time and detaining P.Ws.1 and 2 in the said temple does not arise. Hence, the trial Court rightly acquitted the accused and therefore, this Court is of the view that the findings of the trial Court are in accordance with law and the impugned judgment warrants no interference of this Court.

10. Further, in a case of acquittal, if the trial Court consists of two views and basing on one of the views, which is in favour of the accused, acquits the accused, normally, the appellate Court will not interfere with the judgment of the trial Court unless and otherwise, the evidence adduced by the prosecution clinchingly points towards the guilt of the accused. In the present case, the learned trial Judge has considered all aspects and acquitted the accused. Hence, this Court is not inclined to interfere with the judgment of acquittal of the trial Court and the appeal fails and is liable to be dismissed.

11. Accordingly, this Criminal Appeal is dismissed confirming the judgment, dated 6.12.2005, in C.C.No.2208 of 2000 on the file of the Additional Judicial First Class Magistrate at Chodavaram.

12. Miscellaneous petitions pending, if any, in this Criminal Appeal shall stand closed.

JUSTICE RAJA ELANGO

23.9.2016
AMD

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Date: 23.9.2016

AMD