

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.1926 OF 2004

ORDER:

This Criminal Revision Case is filed by the petitioner/P.W.5/victim under Sections 397 and 401 of the Code of Criminal Procedure, 1973 challenging the judgment, dated 12.8.2004, in Sessions Case No.71 of 2004 on the file of the Assistant Sessions Judge, Addanki whereunder and whereby, the learned Assistant Sessions Judge found all the accused not guilty for the offence under Section 366 I.P.C. and accordingly, acquitted them.

2. The brief facts that are necessary for the disposal of the case are as under:-

On 21.9.2003, morning at about 0500 hours, A-2, with the support and abetment of A-1 and A-3 to A-7, came to Ramavath Lakshmi (L.W.7) and took her forcibly by kidnapping in a jeep and proceeding from that village. Having seen the same, Menavath Surya Naik (L.W.3), when tried to prevent it, the accused pushed him away and went away. Later, Menavath Balu Naik and Menavath Nanuma Naik (L.Ws.4 and 5) came to know about the kidnapping issue through L.W.3. On the same day, Dhupati Yogaiah (L.W.6) saw L.W.7 in the jeep of A-1 to A-7 in Narasaraopet. Later, L.Ws.3 to 5 caused enquiries for L.W.7 but unable to trace her. Then, information was sent to L.Ws.1 and 2. Later, all of them caused enquiries till 29.9.2003. On 29.9.2003, at 7.30 hours, basing on the report presented by Menavath Reddy Naik (L.W.1), L.W.9 – Sub Inspector registered a case in Crime No.34 of 2003 of Ballikurava Police Station under Section 366 I.P.C. and investigated into it. During the course of investigation, L.W.7 was in Ullapalem Village of Singarayakonda Mandal and handed over to L.W.1. On 8.10.2003, L.W.8 – Assistant Sub Inspector

arrested all the accused and sent them to judicial custody. On completion of investigation, charge sheet was filed against the accused.

3. The learned Magistrate took the case into cognizance for the offence under Section 366 read with 109 I.P.C. and numbered as P.R.C.No.29 of 2003. Since the offence is exclusively triable by the Court of Sessions, the learned Magistrate has committed this case to the Court of Sessions, Prakasam Division, Ongole. The learned Sessions Judge has made over this case to the Court of the Assistant Sessions Judge, Addanki on the point of jurisdiction for disposal according to law. After appearance of the accused and upon hearing both sides, all the accused were charged for the offence under Section 366 I.P.C. for which, they pleaded not guilty. So, the accused were placed for trial. The prosecution examined eight witnesses and marked four documents. On behalf of the accused, none was examined and three documents were marked. After considering both oral and documentary evidence on record, the learned trial Judge found the accused not guilty of the offence punishable under Section 366 I.P.C. and accordingly, acquitted them under Section 235(1) Cr.P.C. Challenging the same, the victim filed the present Criminal Revision Case.

4. Heard and perused the material available on record.

5. Upon reading of the entire allegations and taking into consideration of the subsequent events, the case of the prosecution that the accused has forcibly taken away the victim from her house and got performed marriage with A-2 and forced her to have sexual intercourse with him for five days cannot be believed. The said occurrence took place in order to take revenge since the daughter of A-3 was taken away by the husband of the victim on the earlier occasion. After reading of the entire evidence, the learned trial Judge is of the

view that the case of the prosecution is highly unbelievable and improbable and the victim is also a colluding party with the accused. Considering the said facts, the learned trial Judge has acquitted the accused. Further, when the trial Court, after taking into consideration of the entire evidence adduced, is of the view that two views are possible and considers the one which is in favour of the accused and on the basis of the same, acquits the accused, there is no need for interference of the order of acquittal by this Court. The appellate Court normally interferes with the order of acquittal when the entire evidence adduced by the prosecution clingingly points towards the guilt of the accused. Hence, the trial Court rightly pointed out the present case as highly unbelievable and improbable and accordingly, acquitted the accused. Hence, the impugned judgment does not warrant interference of this Court and the Revision Case fails and is liable to be dismissed.

6. Accordingly, the Criminal Revision Case is dismissed confirming the judgment, dated 12.8.2004, in Sessions Case No.71 of 2004 on the file of the Assistant Sessions Judge, Addanki.

7. Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.

JUSTICE RAJA ELANGO

22.7.2016

AMD

THE HONOURABLE SRI JUSTICE RAJA ELANGO

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