

**THE HONOURABLE SRI JUSTICE RAJA ELANGO**

**CRIMINAL APPEAL No.1163 OF 2016**

**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 06.01.2014, in Sessions Case No.39 of 2013 on the file of Special Sessions Judge for Trial of cases under Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act-cum-VII Additional District & Sessions Judge, Mahabubnagar, whereunder and whereby, the respondent/Accused was found not guilty of the offences punishable under Sections 417, 420 and 376 IPC and Sections 3 (1)(x), 3(2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989 and acquitted for the said offences under Section 235(1) Cr.P.C.

2. The respondent/accused enjoyed P.W.1 physically promising to marry her. When P.W.1 insisted the accused to marry her, he refused and abused her stating that she belongs to SC community. Thereafter, P.W.1 placed the matter before elders. In spite of the panchayats, the accused refused to marry her. Hence, P.W.1 lodged a complaint. After due investigation, police laid charge sheet against the accused for the offences punishable under Sections 417, 420 and 376 IPC and Sections 3 (1)(x), 3(2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989.

3. After apprehension of the accused, the learned Magistrate framed the charges under Sections 417, 420 and 326 IPC and Section 3 (1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the accused. The charges were read over and explained to him in Telugu and he pleaded not guilty and claimed to be tried.

4. To substantiate the case of the prosecution, P.W.1 to P.W.8 were examined and Exs.P-1 to P-9.

5. After closure of the evidence on the prosecution side, the accused was examined under Section 313 Cr.P.C and he denied the incriminating evidence appearing against him. On behalf of the accused, none was examined and no documents were marked.

6. The learned trial Judge, basing on the evidence adduced and after elaborate discussion, found the accused not guilty of the offences punishable under Sections 417, 420 and 376 IPC and Sections 3 (1)(x), 3(2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989 and accordingly, acquitted him. Challenging the same, the State filed the present appeal.

7. Heard and perused the material available on record.

8. This Court perused the judgment of the trial Court. Relevant portion of the judgment reads as follows:

“Now the evidence left to the prosecution is the evidence of P.W.1. No doubt, P.W.1 has deposed before the Court that herself and accused had fallen in love and also exchanged love letters and that later on one particular day, on the request, the accused person she has produced the

photographs and love letters and that the accused person torn the photos and love letters. Except this particular instant, P.W.1 has not deposed in respect of the earlier incidents between herself and the accused. I feel the evidence of P.W.1 is not beyond doubt. In the circumstances, I feel, the solitary evidence of P.W.1 is not sufficient to come to conclusion that the accused has promised the P.W.1 to marry and induced her and thus cheated her. I feel, a reasonable doubt arose as to the case of the prosecution in respect of the offence U/s 417 and 420 IPC. Accordingly, I feel that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt.

It is also the case of the prosecution that the accused person abused P.W.1 in the name of her caste. For this also, the evidence available for the prosecution, is the evidence of P.Ws.1 and 2. As already stated, the evidence of P.W.2 is hearsay. When coming to the evidence of P.W.1, as already stated, except the solitary evidence of P.W.1 there is no other evidence. Further according to the prosecution, the accused person has abused P.W.1 as “Madiga Munda Ninnu Peilli Chesukonu” and that the said incident was in the Rising Sun Institute of Shadnagar. The evidence of P.W.1 in her cross examination is that the incident took place in the first floor of the said institute. But for the reasons best known to the investigating Officer none of the persons concerning Rising Sun Institute of Shadnagar were examined. Further, the normal conduct of the humanbeing is, if any such incident took place, it will be informed to the close friends though not to the parents. But in this case, according to the evidence of P.W.1, in the cross examination, she did not inform the incident to her close friends and the same is also not mentioned in Ex.P.1-report. In view of the evidence of P.W.1, I feel it is not sufficient to come to conclusion that the accused person has abused P.W.1 in her caste name, attracting the ingredients of section 3 (1) (x) of SC/ST (POA) Act 1989. I feel, a reasonable doubt will arise as to the case of the prosecution.”

A perusal of the judgment of the trial Court, this Court is of the view that the said findings are in accordance with law and therefore, the impugned judgment warrants no interference by this Court.

9. Further, in a case of acquittal, if the trial Court considered the 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.

10. Accordingly, this Criminal Appeal is dismissed confirming the judgment, dated 06.01.2014, in Sessions Case No.39 of 2013 on the file of the Special Sessions Judge for Trial of cases under Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act-cum-VII Additional District & Sessions Judge, Mahabubnagar.

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

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**JUSTICE RAJA ELANGO**

13.10.2016  
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**Date: 13.10.2016**

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