

THE HON' BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.909 of 2008

JUDGMENT:

This Criminal Revision Case is preferred by the petitioners – Accused against Judgment, dated 18.06.2008, passed in CrI.A.No.475 of 2006 by the X-Additional District & Sessions Judge, Guntur at Narasaraopet, whereby the learned District & Sessions Judge dismissed the appeal by confirming the conviction and sentence imposed by the Principal Assistant Sessions Judge, Narasaraopet, in SC No.400 of 2005 vide Judgment, dated 26.10.2006, wherein the learned Assistant Sessions Judge found the petitioners – accused guilty of the offence under Section 363 IPC and accordingly, convicted and sentenced them to undergo rigorous imprisonment for a period of two years each and to pay a fine of Rs.100/- each, in default to undergo simple imprisonment for one month each for the offence punishable under Section 363 IPC.

The case of the prosecution, in brief, is as follows:

The victim (PW.2) and the accused are residents of Nagavaram village. PW.1 is the father of PW.2. He is running a Tea stall near Anjaneya Swamy temple of Nagavaram. PW.2, who is aged about 16 years, used to help her father in running the tea stall. The accused used to visit the tea stall and they developed acquaintance with PW.2. A1 induced PW.2 that A2 would marry her and asked to come along with them. By saying those deceitful words, A1 and A2 took PW.2 along with them to Pedapalem village and kept her in the house of PW.5. There, both the accused tried to commit rape upon her, for which PW.2 resisted and raised cries. On hearing the cries of PW.1, the neighbours of PW.5 gathered and chastised PW.5 for allowing the accused to detain PW.2 in the house. Then, PW.5 asked the accused to leave that place.

Thereafter, the accused took PW.2 to Aswaraopet and kept her in the house of PW.7. There also they tried to commit rape upon PW.2. On knowing that PW.2 was with the accused, PW.1 went to Aswaraopet, and took his daughter. On enquiry, PW.2 narrated the entire incident to PW.1. Thereafter, PW.1 took PW.2 to Krosur Police Station and lodged a report against the accused, which was registered as Crime No.16 of 2005. After completion of investigation, the police filed charge sheet for the offence under Sections 366(A), 342, 506 and 376 r/w.511 IPC against the accused.

After observing the necessary formalities, the committal Court committed the case to the Court of Sessions, Guntur. The learned Sessions Judge, Guntur, took the case on file and made over the same to the trial Court for trial and disposal in accordance with law. To substantiate its case, the prosecution examined PWs.1 to 9 and marked Exs.P1 to P13. No oral or documentary evidence was adduced on behalf of the accused.

After appreciation of oral and documentary evidence, the trial Court found the accused guilty of the offence under Sections 363 IPC, and accordingly, convicted and sentenced them as stated above. Aggrieved by the same, the accused preferred CrI.A. No.475 of 2006 before the X-Additional District & Sessions Judge, Guntur at Narasaraopet. The learned District & Sessions Judge, after re-appreciation of the evidence, dismissed the appeal by confirming the conviction and sentence recorded by the trial Court against both accused for the offence under Section 363 IPC. Challenging the same, the present revision is preferred by the petitioners –accused.

Heard and perused the entire material available on record.

After evaluating the evidence and after considering the material available on record, this Court is of the view that there are no valid reasons to interfere with the concurrent findings of the Courts below in convicting the petitioners – accused for the offence under Section 363 IPC.

When this Court pointed out that there are no merits in the revision, learned counsel for the petitioners – accused restricted his arguments to the quantum of sentence by submitting that the petitioners are the sole bread winners of their families and therefore, a lenient view may be taken while imposing the sentence.

Considering the facts and circumstances of the case and taking into consideration the age of the petitioners, this Court is inclined to reduce the sentence of imprisonment imposed by the trial Court on the petitioners – accused for the above offence, as modified by the lower appellate Court, to that of the period, which the petitioners have already undergone.

In the result, the conviction recorded by the Principal Assistant Sessions Judge, Narasaraopet, vide judgment, dated 26.10.2006, in SC No.400 of 2005, as confirmed by the X-Additional District & Sessions Judge, Guntur at Narasaraopet, vide judgment, dated 18.06.2008, in CrI.A. No.475 of 2006, for the offence under Section 363 IPC is hereby confirmed. However, the sentence of imprisonment imposed by the trial Court, as modified by the appellate Court, against the petitioners under the above head, is reduced to that of the period, which the petitioners have already undergone. The fine amount is not interfered with.

Accordingly, the Criminal Revision Case is partly allowed.
Consequently, miscellaneous applications, if any pending, shall stand closed.

RAJA ELANGO, J

September 06, 2016.
KTL

