

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL APPEAL No.570 OF 2008

JUDGMENT:

This Criminal Appeal is filed by the sole accused challenging the judgment of the Additional Metropolitan Sessions Judge, Cyberabad, NTR Nagar, Hyderabad dated 06.02.2008 in S.C.No.313 of 2007 whereby the learned Sessions Judge convicted the appellant-accused for the offences under Sections 376(2)(f) and 384 IPC and sentenced him to undergo R.I. for ten years and to pay a fine of Rs.100/-, in default, to undergo S.I. for six months for the offence under Section 376(2)(f) IPC and to undergo R.I. for two years for the offence under Section 384 IPC.

The case of the prosecution is that P.W.1-victim girl, aged about 9 years, is a student studying IV class in North City High School, Suraram. On 15.7.2006 while she was returning from school along with P.W.3 at about 12.30 p.m., the accused approached them, induced them saying that there are mangoes and guavas in a nearby company premises, took them into a dilapidated structure, he laid her down, removed his pant zip and committed rape on her. He also took ear tops of P.W.3. He further threatened them to kill, if they disclose the incident to anybody.

Later, the victim went to her home and informed the incident to her parents. Basing on the statement of L.W.1, police registered a case in Crime No.594 of 2006 under Sections 376(f) and 379 IPC and after completion of investigation, laid the charge sheet against the accused.

In order to bring home the guilt of the accused, the prosecution examined P.Ws.1 to 10, marked Exs.P.1 to P.10 and exhibited M.Os.1 and 2. On behalf of defence, no oral was

adduced but part portion of Ex.P.5 was marked as Ex.D.1.

After analyzing the evidence brought on record, the trial Court convicted and sentenced the appellant-accused as aforementioned. Hence, the appeal by the accused.

Heard the learned counsel for the appellant and learned Public Prosecutor. Perused the material available on record.

The trial Court convicted the appellant mainly basing on the evidence of victim-P.W.1 and the eyewitness-P.W.3, who is the classmate of P.W.1. P.W.1 was studying IV Class at the time of occurrence. She deposed that on the date of incident, the accused approached them, induced them to give guava and mangoes from a company nearby the place, took them to a company premises, made her to lay down on the ground and later he laid on her. She suffered pain and blood came out from her private parts. The accused also snatched the ear studs belonged to P.W.3. Later, she went to her house and informed the incident to her parents. P.W.2 is the father of P.W.1 and he deposed that on the date of incident, P.W.1 came from school by weeping and with bleeding injury on her private parts and on enquiry, P.W.3 informed him that P.W.1 was raped by the accused. P.W.3, who is the eyewitness to the occurrence, corroborated the evidence of P.W.1 in toto. The medical evidence of P.W.5, who examined P.W.1 and issued Ex.P.2 wound certificate is also corroborated with the evidence of P.W.1. It is not necessary to deal with the other part of the evidence for the reason that though P.Ws.1 and 3 are child witnesses, they categorically deposed the manner in which they were subjected to sexual assault and further the doctor's evidence also clearly indicates that P.W.1 was subjected to sexual assault. Further P.Ws.1 and 3 identified the accused not only in identification parade but also before the Court. That apart,

as far as recovery of M.O.2-ear studs of P.W.3 is concerned, it is also established by the prosecution without there being any discrepancy, that it is recovered at the instance of the accused. In view of the said evidence, this Court is of the view that the prosecution established the guilt of the accused beyond all reasonable doubt and the trial Court rightly convicted and sentenced the accused for the said offence and no ground is made out to interfere with the impugned judgment.

In the result, the Criminal Appeal is dismissed confirming the conviction and sentence imposed on the accused-appellant by the Additional Metropolitan Sessions Judge, Cyberabad, NTR Nagar, Hyderabad dated 06.02.2008 in S.C.No.313 of 2007.

Pending Miscellaneous petitions, if any, shall stand closed.

JUSTICE RAJA ELANGO

03.08.2016

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