

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.1263 OF 2006

ORDER:

This Criminal Revision Case, under Sections 397 & 401 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), is directed against the judgment, dated 20.07.2006, in CrI.A.No.145 of 2004, on the file of the learned IV Additional District & Sessions Judge (Fast Track Court), Karimnagar, whereunder and whereby the conviction of the petitioner/accused of the offence punishable under Section 354 of the Indian Penal Code, 1860 (for short, "I.P.C."), recorded in judgment, dated 22.11.2004, in S.C.No.887 of 2001, by the learned Assistant District & Sessions Judge, Huzurabad, Karimnagar District, was confirmed.

2. The brief facts, that are necessary for the disposal of the present Criminal Revision Case, may be stated as follows:

On 12.05.2001 at about 12 noon, when P.W.1, the *de facto* complainant was going alone to her cattle shed situated on the way leading to Chellur Village, the accused found her lonely and caught hold of her hand and used criminal force against her with an intention to outrage her modesty. When the *de facto* complainant raised cries, P.W.3, who is the brother of the *de facto* complainant, came there and rescued P.W.1 and beat the accused and the accused ran away. Later, P.W.1 informed the same to her father and others. On 13.05.2001 at about 8.00 am, P.W.1 lodged a complaint to the police.

3. When the charge under Section 354 I.P.C. was framed, read over and explained to the accused in Telugu, he pleaded not guilty and claimed to be tried.

4. To substantiate the charges, the prosecution examined P.Ws.1 to 7 and got marked Exs.P1 to P5.

5. After closure of the prosecution evidence, the accused was examined under Section 313 Cr.P.C. with reference to the incriminating

evidence appearing against him in the evidence of P.Ws.1 to 7. He denied the same. On behalf of the accused, no evidence either oral or documentary was adduced.

6. The trial Court, after considering the evidence on record, found the accused guilty of the offence punishable under Section 354 I.P.C. and sentenced as stated above. On appeal, the said conviction and sentence was confirmed. Hence, the present Criminal Revision Case.

7. Now the point for determination is whether the judgments of both the Courts below are correct, legal and proper?

8. Heard the learned counsel for the petitioner and the learned Public Prosecutor for the respondent.

9. The trial Court, after examining the witnesses by the prosecution, believed the evidence, more particularly, the evidence adduced by P.W.1, who is the victim girl in this case. P.W.2 is the brother of P.W.1. The other circumstantial witnesses turned hostile and not supported the case of the prosecution. The evidence of P.W.1 is that the petitioner herein, on the date of occurrence, caught hold of her hand and dragged her towards him with bad intention and also deposed that the petitioner wrote love letters to her about 5 or 6 days prior to the date of incident and the same is marked as Ex.P-2.

10. Learned trial Judge as well as the learned appellate Judge fairly relied on the said evidence and convicted the accused. Admittedly, the petitioner is aged about 21 years on the date of occurrence. Even though P.W.1 stated that the accused caught hold of her hands and dragged her with bad intention, the said evidence is not stated as to how she has come to a conclusion that the petitioner caught hold of her hands and dragged her with a bad intention. Admittedly, the petitioner was in love with P.W.1, as stated by P.W.1, since he used to write love letters to P.W.1.

11. Merely caught holding of the hands of P.W.1 by the petitioner, that too when not supported by any of the circumstantial

witnesses, the sentence for a period of five (5) years by convicting the accused for the offence punishable under Section 354 I.P.C. is not safe. Hence, this Court is of the view that the petitioner/accused cannot be convicted on the present available evidence.

12. Hence, the conviction and sentence, recorded by the trial Court and confirmed by the Appellate Court, are liable to be set aside.

13. Accordingly, the Criminal Revision Case is allowed by setting aside the judgment, dated 20.07.2006, in CrI.A.No.145 of 2004, on the file of the learned IV Additional District & Sessions Judge (Fast Track Court), Karimnagar. The accused is found not guilty of the charge under Section 354 I.P.C. and accordingly, he is acquitted of the said charge. Bail bonds of the accused shall stand cancelled. Fine amount, if any, paid by the accused shall be returned to him. Miscellaneous Petitions, if any, pending in this criminal revision case shall stand closed.

RAJA ELANGO, J

Date: 21st July, 2016

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THE HONOURABLE SRI JUSTICE RAJA ELANGO

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