

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.1687 of 2006

JUDGMENT:

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1. This appeal is filed by the State against the judgment dated 11.2.2005 passed by the Assistant Sessions Judge, Gooty, Anantapur, in S.C.No.115 of 2002.

2. The case of the prosecution reads as follows:

P.W.1 is a resident of Gooty-Venkatampalli village and she hails from Nittur Brahmanapalli village. Her marriage was performed with Eoiga Jagaleti Chakrapani, who is working as teacher at Virupapuram village. P.Ws.1 and 2 are residing at Gooty-Venkatampalli. P.W.2 goes to his school in the morning around 8.30 a.m., and returns at about 5 p.m. On 6.7.2001 at about 5 p.m., P.W.1 went to her hayrick yard to collect stalk/fodder for buffaloes and after filling the basket, when she was about to lift the basket, the accused, who was observing her, went to her, caught hold of her and attempted to commit rape. Meanwhile, P.W.1 pushed him and managed to escape from him, during the course of which, the accused scratched on her face and on her right hand with nails, tried to gag her mouth with edge of her saree. Meanwhile, P.Ws.3 to 5 came there to collect fodder from the hayrick and witnessed the occurrence and among them, P.Ws.3 and 5 chased the accused, but he ran away. P.W.1 returned to the house and informed about the incident to P.W.2, who returned from the school. Then, P.Ws.1 and 2 went to the police station and gave a report, basing on which, a case was registered and investigated into. After completion of the investigation, charge sheet was filed. The committal Court took the case on file as P.R.C.No.36 of 2001 and committed the same to the Court of Sessions, Anantapur. The Court of Sessions made over the same to the learned Assistant Sessions Judge, Gooty, for disposal.

3. The trial Court framed charges for the offence under Sections 376 r/w 511 IPC and Section 323 IPC against the accused, read over and explained to him, for which he pleaded not guilty and claimed to be tried.

4. During the course of trial, P.Ws.1 to 7 were examined and Exs.P1 to P5 were marked. No oral or documentary evidence was adduced on behalf of the accused.

5. On appreciation of oral and documentary evidence, the trial Court found the accused not guilty for the charges leveled against him and acquitted him. Aggrieved by the same, the State filed the present appeal.

6. Now, the point that arises for consideration in this appeal:

“Whether the judgment of acquittal passed by the trial Court warrants any interference?”

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7. **POINT:**

It is the case of the prosecution that the accused caught hold of P.W.1 and tried to commit rape on her. The defence of the accused is that during the absence of the husband of P.W.1, the accused saw P.W.1 and the brother of P.W.2 i.e., P.W.3 in a very close position and therefore, the present case has been foisted against him.

8. According to the prosecution, P.Ws.3 to 5 are the eye witnesses to the occurrence. There are many discrepancies in the evidence of P.Ws.1, 3 to 5. P.W.1 has not stated about the taking of her child to the place of occurrence in Ex.P1-report. But she deposed in her evidence that she has taken her child along with her. P.Ws.3 and 4 did not speak about the presence of child.

9. Further, P.W.1 denied the suggestion given to her that the accused used to come to her house to watch house. Her evidence is

falsified by the evidence of P.W.4, who stated that the accused used to visit the house of P.W.1. P.W.5 deposed that he found P.W.1 weeping at her house and on enquiry he came to know that the accused raped P.W.1. There are many discrepancies in the evidence of P.Ws.1 to 5. Therefore, the trial Court disbelieved their evidence.

10. Considering the evidence on record and the findings recorded by the trial Court, this Court is not inclined to interfere with the judgment under appeal.

11. Accordingly, the Criminal Appeal is dismissed. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

JUSTICE RAJA ELANGO

Dated: 21st July, 2016

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THE HONOURABLE SRI JUSTICE RAJA ELANGO

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