

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.13 OF 2008

ORDER:

The petitioner has preferred the present criminal revision case by invoking the provisions under Sections 397 and 401 of Code of Criminal Procedure (Cr.P.C.) being aggrieved by the order, dated 20.12.2007, passed in Criminal Appeal No.187 of 2006 by the Court of the Sessions Judge, at Karimnagar, whereby the learned Sessions Judge confirmed the conviction imposed by order dated 19.12.2006 passed in S.C.No.318 of 2005 by the Court of the Assistant Sessions Judge, at Huzurabad, against the petitioner/accused for the offences under Sections 354 and 448 IPC, and reduced the sentence of rigorous imprisonment to a period of three years, from five years, for the offence under Section 354 IPC and the sentence of rigorous imprisonment to a period of three months, from six months, for the offence under Section 448 IPC. However, the lower appellate Court did not interfere with the fine of Rs.1,000/- (Rupees one thousand only), in default, to suffer rigorous imprisonment for a period of three months for the offence under Section 354 IPC and fine of Rs.500/- (Rupees five hundred only), in default, to suffer simple imprisonment for a period of two months for the offence under Section 448 IPC.

The case of the prosecution is that when the complainant, P.W.1 and his wife went to attend the death ceremony at Gatlanarsingapur village, the accused trespassed into their house, where the victim girl, P.W.2, was alone in the house, and caught hold of the hand of P.W.2 and gagged her mouth with a cloth and tried to molest her and that the victim girl, P.W.2, raised hue and cry and at

that time, P.W.1's son, P.W.3, returned home from the well for meals opened the door and on seeing him, the accused ran away. On the complaint lodged by P.W.1, a case was registered against the accused for the offences under Sections 448 and 354 IPC. After completion of the investigation, the police filed the charge sheet.

To substantiate the case of the prosecution, P.Ws.1 to 6 were examined and Exs.P.1 to P.5 were marked. No oral or documentary evidence was adduced on behalf of the defence.

On appreciation of oral and documentary evidence, the trial Court found the petitioner guilty and convicted for the offences under Sections 354 and 448 IPC and sentenced him to undergo rigorous imprisonment for a period of five years, and to pay a fine of Rs.1,000/- (Rupees one thousand only), in default, to suffer rigorous imprisonment for a period of three months for the offence under Section 354 IPC and to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.500/- (Rupees five hundred only), in default, to suffer simple imprisonment for a period of two months for the offence under Section 448 IPC. Aggrieved over the same, the petitioner preferred the criminal appeal before the lower appellate Court. The lower appellate Court confirmed the conviction for the offences under Sections 354 and 448 IPC, but reduced the sentence of rigorous imprisonment to a period of three years, from five years, for the offence under Section 354 IPC and the sentence of rigorous imprisonment to a period of three months, from six months, for the offence under Section 448 IPC. However, the lower appellate Court did not interfere with the sentence of fine and default clause imposed by the trial Court against the appellant/accused for the offences under Sections 354 and 448 IPC. Aggrieved by the

same, the present criminal revision case is preferred by the petitioner/accused.

Heard and perused the entire material available on record.

It is the case of the victim girl, P.W.2, that the accused caught hold of her hands and gagged her mouth, whereas it is the case of P.W.3 that the accused caught hold P.W.2 tightly by gagging her mouth with a cloth and on seeing him, the accused ran away. P.W.2 further stated that while she was wearing dress in their house, the accused entered their house bolted the door, but the same was not stated by the Police concerned. Insofar as gagging the mouth of the victim girl is concerned, P.W.2 did not state that the accused gagged her mouth with cloth, whereas P.W.3 stated that the accused gagged the mouth of the victim girl with cloth and as such, there is a contradiction. Further, it is the case of the prosecution that after the occurrence, P.W.3 informed the said occurrence to the MPTC Member, and on that, the said MPTC Member called the accused and directed the accused to touch the feet of P.Ws.2 and 3, however, P.Ws.2 and 3 did not agree for it and did not agree for settlement, but no other witness did not speak about the said panchayat. Further, P.Ws.4 and 5, who are panch witnesses, turned hostile and did not support the case of the prosecution. Hence, this Court is of the view that there are contradictions in the evidence of interested witnesses and that basing on the available evidence on record, it is highly unsafe to convict the accused for the offence under Sections 354 and 448 IPC as the prosecution failed to establish the case beyond reasonable doubt. Hence, the conviction and sentence imposed against the petitioner/accused for the

offences under Sections 354 and 448 IPC are liable to be set aside and is accordingly set aside.

In the result, the Judgment of the lower appellate Court in convicting the petitioner/accused for the offences under Sections 354 and 448 IPC, is set aside, and the petitioner/accused is acquitted of the charges. The bail bonds shall stand cancelled and the sureties stand discharged. The fine amount, if any, paid by the petitioner shall be refunded to the petitioner.

The criminal revision case is accordingly allowed. Consequently, the miscellaneous petitions, if any pending in this revision case, shall stand closed.

09.08.2016
pln



JUSTICE RAJA ELANGO