

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Criminal Revision Case No.3094 of 2017

JUDGMENT:

The present Criminal Revision Case is preferred by the appellant-accused questioning the order of conviction recorded under Section 248 (2) of Cr.P.C. for the offence punishable under Section 363 of I.P.C. and sentenced to undergo simple imprisonment for a period of two years and fine of Rs.2,000/-, with default sentence of simple imprisonment for three months passed by the IV-Additional District & Sessions Judge, Guntur in Criminal Appeal No.202 of 2015 by his judgment dated 25.09.2017.

2. Heard Sri T.S. Rayalu, learned Legal Aid Counsel for the petitioner, and the Assistant Public Prosecutor for the State of Andhra Pradesh.

3. A few facts, which require advertence are thus:

Initially, the father of the victim girl-P.W.3, who was missing, lodged a complaint on 10.06.2014 about missing of his daughter since 9.6.2014, basing on which the Station House Officer, Arundalpet P.S. registered Crime No.383 of 2014, investigated into and charge-sheet was laid for the offence punishable under Section 366-A of the Indian Penal Code and under Section 4 of Protection of Children from Sexual Offences Act, 2012. Since the accused pleaded not guilty, the learned IV-Additional Assistant Sessions Judge, Guntur, examined P.Ws. 1 to 9 and marked Exs.P1 to P15, whereas on behalf of the defence

Exs.D1 and D2, which are contradictions in the statement of P.W.3 (victim girl) were marked.

4. The learned IV-Additional Assistant Sessions Judge, Guntur, having believed the evidence of P.Ws.1 to 3, scored out the contradictions marked as Exs.D1 and D2 in the statement of P.W.3 as they do not amount to material contradictions and arrived at the conclusion that the prosecution could prove the offence punishable under Section 363 of I.P.C. but failed to prove the charge under Section 366-A of I.P.C. and thereby convicted him and inflicted the aforesaid sentence giving set off to the period of pre-trial detention, under Section 428 of Cr.P.C.

5. Aggrieved over the same, when the accused preferred the appeal, the learned I-Additional Assistant Sessions Judge, Guntur, on re-appraisal of the evidence on record did not differ from the findings recorded by the learned IV-Additional Assistant Sessions Judge, Guntur, and arrived at the opinion that the prosecution could prove the offence punishable under Section 363 of I.P.C. beyond all reasonable doubt, and, thereby dismissed the appeal, confirming both conviction as well as sentence of imprisonment and fine.

6. Challenging the said judgment, he preferred the present Criminal Revision Case.

7. There is no need to refer to the defence set out and to scan the evidence on record touching appreciation of evidence as per

the evidentiary rule for the reason in the Grounds of Appeal there is no specific ground as to which of the findings recorded by the trial Court or the lower Appellate Court do suffer from patent illegality. In fact, on a thorough scanning of the evidence of P.Ws. 1 to 3, more particularly, the evidence of P.W.3, it is clear that the revision petitioner-accused kidnapped the victim by luring her, who was aged 14-year-old, and the same was spoken to by P.W.3 and the contradictions elicited in the cross-examination of P.W.3, marked as Exs.D1 and D2 would not amount to material contradictions so as to cut at the root of the prosecution case. Therefore, the findings recorded by the Courts below do not warrant interference as there is nothing in the cross-examination of P.Ws.1 to 3 bringing out that their evidence is not creditworthy.

8. There is absolutely no merit in the present Criminal Revision Case and, accordingly, the same is liable to be dismissed.

9. The learned Legal Aid Counsel for the petitioner would submit that the petitioner was in custody from 27.6.2014 to 29.5.2015, and again committed pursuant to the warrant of committal to the District Jail, Guntur, on 25.9.2017 to serve out the sentence and now he is serving the sentence.

10. Keeping in view, that the petitioner had already undergone imprisonment for 1 year 1½ months i.e., 405 days, the sentence of imprisonment alone is modified from two years simple

imprisonment to the period already undergone by the revision petitioner/accused. Therefore, it is directed that the revision petitioner-accused shall be set at liberty forthwith, in case he is not required in any other case. The bail bonds, if any, furnished by the revision petitioner shall stand cancelled.

11. Criminal Revision Case is dismissed except to the extent of modifying the sentence indicated in the above.

As a sequel thereto, miscellaneous petitions, if any, pending in the Criminal Revision Case shall stand closed.

A. SHANKAR NARAYANA, J

December 07, 2017.

Note:- CC today.

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