

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL APPEAL No.2878 of 2018

JUDGMENT:

This Criminal Appeal, under Section 374(2) of the Code of Criminal Procedure, 1973, is filed by the appellant/accused, challenging the judgment, dated 16.08.2017, passed in S.C.No.239 of 2016 by the Special Sessions Judge for Fast Tracking the Cases relating to Atrocities against Women at Nalgonda. By the said judgment, the Court below convicted the appellant-accused of the offences under Sections 307 and 376 read with 511 of I.P.C. and sentenced him to undergo simple/rigorous imprisonment for a period of seven years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for three months for the offences under Sections 376 read with 511 of I.P.C., and also sentenced him to undergo rigorous/simple imprisonment for a period of ten years and to pay a fine of Rs.1,000/- and in default, to undergo simple imprisonment for three months and ordered that both the substantive sentences shall run concurrently.

2. Heard the learned counsel appearing the appellant/accused, the learned Additional Public Prosecutor appearing for the respondent/State and perused the record.

3. Learned counsel for the appellant/accused would contend that the accused is falsely implicated in this case. He has not attempted to do away with the life of his wife and no attempt of rape was committed on P.W.2-Vemula Maremma. All the allegations made against him are false. The trial Court did not appreciate the facts and circumstances of the case in correct perspective and erroneously

convicted and sentenced the appellant/accused for the offences under Sections 307 and 376 read with 511 of I.P.C. and ultimately, prayed to allow the appeal by setting aside the conviction and sentence recorded against the appellant/accused by the trial Court.

4. Learned Additional Public Prosecutor representing the respondent/State would contend that there is evidence of P.W.1-wife of the accused and P.W.2-victim to substantiate that the accused made an attempt to do away the life of his wife (P.W.1) and also made an attempt to commit rape on P.W.2. There is evidence of other witnesses to connect the accused with the alleged offences. The trial Court rightly appreciated the facts and circumstances of the case and rightly convicted and sentenced the accused of the offences punishable under Sections 307 and 376 read with 511 of I.P.C. and ultimately, prayed to sustain the impugned judgment.

5. In view of the above submissions made by both sides, the points that arise for determination are as follows:-

1. Whether the appellant/accused made an attempt to cause the death of his wife (P.W.1)?
2. Whether the appellant/accused made an attempt to commit rape on P.W.2-Vemula Maremma?
3. Whether the conviction and sentence recorded against the appellant/accused of the offences under Sections 307 and 376 read with 511 of I.P.C. are sustainable?

6. There is specific evidence of P.W.1-G.Maheswari, wife of the accused, with regard to her begetting two children. Earlier also, the appellant/accused was prosecuted for the allegation of committing rape on his mother. Thereafter, the parties had entered into compromise on the assurance given by the appellant/accused that he

would change his behaviour and consequently, that case ended in acquittal.

7. In the present case, it is alleged that on 03.02.2016 at about 20:00 hours, the accused made an attempt to commit rape on P.W.2 (victim) in inebriated condition. Further, on 04.02.2016 at 10:00 hours, he made an attempt to cause the death of his wife (P.W.1). There is specific evidence of P.Ws.2 and 4 corroborating each other. There is consistency in the evidence of prosecution witnesses. The evidence of two eye witnesses, i.e., P.Ws.4 and 5 substantiate the allegations against the appellant/accused as regards his committing rape on P.W.2 and also to do away the life of P.W.1. There is no reason for them to depose falsely against the appellant/accused. There is also specific evidence of witnesses about the appellant/accused running away from the scene of offence holding a knife in his hand. The knife was recovered under the cover of panchanama in the presence of P.W.7 and other witnesses.

8. P.W.9-Sub-Inspector of police visited the scene of offence, secured the presence of P.W.7 and L.W.8, prepared Exs.P2 and P3 and recovered M.O.1-knife. On 06.02.2016, the appellant/accused was apprehended. Pursuant to his confession, M.O.2 another knife was recovered from the waist of the accused under the cover of panchanama. The trial Court had elaborately dealt with the oral and documentary evidence and assigned number of reasons in believing the prosecution witnesses. The findings of the trial Court are based on evidence on record. As seen from the record, P.W.1 did not suffer any injury. An attempt to commit rape on P.W-2 coupled with an intention to do away the life of P.W.1 constitute the offences under

Sections 376 and 307 IPC and the same are substantiated by leading cogent evidence. Under these circumstances, there is nothing to take a different view than the one taken by the trial Court. The trial Court had rightly convicted and sentenced the accused for the offences under Sections 307 and 376 read with 511 of I.P.C.

9. For the foregoing discussion, the Criminal Appeal is liable to be dismissed and is accordingly dismissed.

Pending Miscellaneous Petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

Date : 02.01.2019
ssp