

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL APPEAL No.1676 of 2009

ORDER:

This appeal has been preferred by the State, aggrieved by the Judgment, dated 17.07.2008, passed by the Special Judge for trial of cases under SCs/STs (POA) Act, Adilabad, in Sessions Case No.12 of 2008, whereby, the 1st respondent/A-1 was acquitted of the offences under Sections 366(a), 376 of IPC and under Section 3(1)(xii) of SCs/STs (POA) Act, and the 2nd respondent/A-2 was acquitted of the offence under Section 366(a) of IPC.

2. Heard learned Public Prosecutor appearing for the State and the learned counsel appearing for the respondents/accused, and also perused the record.

3. The case of the prosecution is that respondent No.1/A-1 kidnapped the daughter of PW.1 i.e. PW-2 on 26.01.2006 at about 8 p.m. from their village, took her to Hasnapur, handed her over to the 2nd respondent/A-2 asking him to take her to Adilabad. Later, both the accused took her to Nizamabad and Jagtial, and during the stay at Nizamabad and Jagtial, the 1st respondent/A-1 committed rape on PW-2 and later both the accused fled from Jagtial leaving PW-2, on seeing PW-6. Then, PW-6 took PW-2 to the village and handedover to her parents.

4. In order to prove the guilt of the accused, prosecution examined PWs.1 to 13 and got marked Exs.P-1 to P-20. On behalf of defence, no oral evidence was adduced, but Ex.D.1 was marked.

5. The Court below, after conclusion of trial, acquitted both the accused. Hence this appeal by the State.

6. It is contended by the learned Public Prosecutor that the trial Court has erred in disbelieving the evidence of prosecution witnesses and has erroneously acquitted the accused.

7. The learned counsel for respondents/accused, on the other hand, contended that the trial Court, after evaluating the evidence of prosecution witnesses in detail and after perusing the documentary evidence on record, has given its findings that the prosecution has failed to establish its case against the accused, and thus, has rightly acquitted the accused. He contended that there are no grounds to interfere with the well-reasoned judgment of the court below acquitting the accused. Accordingly, he prayed for dismissal of the appeal.

8. The material on record shows that the trial Court has observed that PW-1 has lodged complaint only on the information given by PW-2 about the accused allegedly kidnapping her. PW-2 deposed that she and A-2 alone were present in the RTC bus apart from Driver and Conductor of the bus while travelling from Uttoor Cross roads to Adilabad, yet, she did not raise any hue and cry and did not make any attempt to escape from A-2. The evidence of victim girl and her father i.e. PW-1, apart from the medical evidence disclose that the victim/PW-2 was not minor at the time of alleged incident. The investigating officer also failed to collect medical evidence to show any traces of semen of accused present at the private parts of the victim girl/PW-2 to connect the accused with the offence.

9. Therefore, this Court is of the view that there is no infirmity or illegality in the Judgment of the trial Court and this appeal is liable to be dismissed.

10. The Criminal appeal is accordingly dismissed confirming the Judgment, dated 17.07.2008, passed by the Special Judge for trial of cases under SCs/STs (POA) Act, Adilabad, in Sessions Case No.12 of 2008. Pending miscellaneous applications, if any, shall stand closed.

G. SRI DEVI, J

23rd February 2021

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Date:23.02.2021