

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THURSDAY, THE SEVENTEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL APPEAL NO: 1034 OF 2011

Criminal Appeal Under Section 374(2) of Cr.P.C against the Judgement dated 04-08-2011 in S.C.No.3 of 2010 on the file of the Court of the Special Sessions Judge for trial of cases under SCs and STs (POA) Act-cum-Additional Sessions Judge, Khammam.

Between:

Gunja Appa Rao, S/o. Raghavulu Coolie R/o. Bayyannagudem Village, Penubally Mandal, Khammam District.

APELLANT/(ACCUSED)

AND

The State of Andhra Pradesh, Rept. by its Public Prosecutor, High Court Buildings, Hyderabad.

RESPONDENTS

Counsel for the Appellant: Sri P.DURGA PRASAD

Counsel for the Respondent : PUBLIC PROSECUTOR

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL APPEAL No.1034 OF 2011****J U D G M E N T:**

This Criminal Appeal is filed under Section 374(2) of Code of Criminal Procedure (for short "Cr.P.C.") by the appellant – accused No.1 aggrieved by the conviction recorded by the learned Special Sessions Judge for trial of Cases under SCs and STs (POA) Act – cum – Additional Sessions Judge at Khammam in Sessions Case No.03 of 2010 dated 04.08.2011 convicting the accused No.1 for the offences punishable under Sections 354 and 325 of Indian Penal Code and sentence of rigorous imprisonment for a period of three years, under two counts.

2. Briefly the case of the prosecution is that the appellant was in love with PW1 and on the day of incident which is on 10.05.2009 when PW1 went to the back of her house for the purpose of taking bath, the appellant went there and caught hold of her hand and stated that he loves her and proposed to live together. PW1 when shouted for help, her father - PW3, sister – PW2 and others went to the back of the house, at that juncture when questioned, the appellant allegedly pulled one stick and beat PW3 on his head and also

on his hands. Thereafter, the appellant abused them in the name of their caste. When PW3 and others went to the house of the appellant, there the mother of the appellant who was arrayed as Accused No.2 also abused them in the name of their caste and also beat them with a stick. On the basis of the said complaint, the police filed charge sheet for the offences under Sections 354, 325 and 324 of IPC and also Section 3(1)(x) of SCs and STs (POA) Act, 1989.

3. The learned Sessions Judge having examined PWs 1 to 15 and marking Exs.P1 to P11 found the appellant guilty for the offences of Sections 354 and 325 of IPC. The learned Sessions Judge also found Accused No.2 guilty of the offence under Section 323 of IPC and sentenced her to pay a fine of Rs.1000/-. Further, the learned Sessions Judge found that on the basis of the evidence of PWs 1 to 3, no offence under Section 3(1)(x) and 3(1)(xi) of SCs and STs (POA) Act was made out, accordingly, acquitted the appellant and her mother for the said offence.

4. Heard learned counsel for the appellant and learned Additional Public Prosecutor of the respondent – State. Perused the material on record.

5. As seen from the evidence on record, the case of PW1 is that when she went to the back of her house to take bath, the appellant came there and caught hold of her hand and proposed to live together. The said act of catching hold of PW1 hand and proposing to live together or cohabit for the reason of the appellant being in love with PW1, would not amount to an offence under Section 354 of IPC.

6. To attract an offence under Section 354 of IPC, a person should have assaulted or used criminal force with intent to outrage the modesty of a woman. In the present case, the appellant by catching hold of the hand of the PW1 and expressing his love for PW1 would not satisfy the ingredients of Section 354 of IPC. Accordingly, the conviction under Section 354 of IPC is hereby *set aside*.

7. However, the learned counsel for the appellant admitted that, the appellant attacked PW3 and hit him on head and also on his hand. Ex.P7 is the injury certificate of PW3 issued by PW12 who examined PW3 and gave the certificate. As per the evidence of PW12, the injury received was grievous injury.

8. In view of the above discussion, since the said incident of beating PW3 was pursuant to an altercation and as the incident is of the year 2009, nearly thirteen (13) years have elapsed; and since the old aged mother and children of the appellant are dependent on him, this Court deems it appropriate to reduce the sentence of imprisonment of the appellant under Section 325 of IPC to the period already undergone.

9. Accordingly, the Criminal Appeal is partly allowed reducing the sentence of imprisonment of the appellant to the period already undergone.

Miscellaneous applications, if any pending in this criminal appeal, shall stand closed.

//TRUE COPY//

Sd/- K. SRINIVASA RAO
JOINT REGISTRAR
GD
SECTION OFFICER

To,

1. The Special Sessions Judge for Trial of Cases under SC & STs (POA) Act-cum-Additional Sessions Judge, Khammam.
2. Two CCs to the Public Prosecutor, High Court For the State of Telangana at Hyderabad (OUT)
3. One CC to SRI. P DURGA PRASAD, Advocate [OPUC]
4. Two CD Copies

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HIGH COURT

KSJ

DATED:17/11/2022

ORDER

CRLA.No.1034 of 2011



CRIMINAL APPEAL IS PARTLY ALLOWED

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12/12/22