

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

**THURSDAY, THE FOURTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL APPEAL No: 133 of 2021

Criminal Appeal U/s 374 (2) of Cr.P.C against the Judgment dated 02-03-2021 made in S.C.No.154 of 2019 on the file of the Court of the Special Judge for Fast Tracking of Cases relating to Atrocities against Women-cum-IX Additional Sessions Judge, Warangal.

Between:

GAJULA VEERANNA, S/o Bixam, Aged 37 years, Occ. Agriculture, R/o Kuravi Village & Mandal, Mahabubabad District.

...Appellant/Accused

AND

The State of Telangana, Through Station House Officer, Kuravi Police Station, Rep. by Public Prosecutor, High Court for the State of Telangana, Hyderabad.

...Respondent/Complainant

IA NO: 1 OF 2021

Petition under Section 389 (1) of Cr.P.C. praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the sentence imposed in Sessions Case No. 154 of 2019 dt. 02-03-2021 on the file the Special Judge for Fast Tracking of Cases Relating to Atrocities Against Women-cum-IX Additional Sessions Judge, Warangal and release the Petitioner on the bail pending disposal of the above Criminal Appeal.

Counsel for the Appellant: SRI MAHADEV ANYAMRAMBHATLA

Counsel for the Respondent: PUBLIC PROSECUTOR

The Court delivered the following: JUDGMENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL APPEAL No.133 of 2021

JUDGMENT:

This appeal is filed by the accused aggrieved by the conviction recorded by the Special Judge for Fast tracking of Cases relating to Atrocities against Women-cum-IX Additional Sessions Judge, Warangal, in Sessions Case No.154 of 2019 dated 02.03.2021 for the offence under Section 354 of the Indian Penal Code and sentencing him to undergo Rigorous Imprisonment for a period of one year and a fine of Rs.3,000/-.

2. Heard.

3. Briefly, the case of the prosecution is that when PW1 was watering the cotton field in their village at about 2.00 p.m., the appellant went there, caught hold of her hand and tried to rape her. At that point of time, she was alone in the field and shouted for help. Her husband-PW2 rushed to the said place and on seeing him, the accused fled. Accordingly, complaint was filed.

4. The complaint was investigated and charge sheet was filed under sections 354 and 376 r/w.511 of Indian Penal Code.

5. The learned Sessions Judge having examined PWs.1 to 9 and marking Exs.P1 to P8 found that the offence under Section 376 r/w.511 of IPC was not made out. However, the accused is convicted for the offence under Section 354 of the Indian Penal Code.
6. Learned Counsel appearing for the appellant would submit that a false case is filed against the appellant with a delay of nearly 24 hours. It is highly improbable that no villagers were present in day time i.e. around 2.00 p.m. The question of PW1-victim being alone at that time does not arise. In fact there is a road adjoining the fields, which is busy. For the said reasons, since the allegations are highly improbable, the appeal has to be allowed.
7. On the other hand, learned Additional Public Prosecutor submits that the victim-PW1 has clearly stated that the appellant went to the fields and tried to commit rape, for which reason, the appeal has to be dismissed.
8. PW1-victim stated that the appellant went to the fields and caught hold of her hand. Apart from the said allegation of catching hold of her hand, the victim-PW1 had not stated as to

what transpired or what happened after the appellant had caught hold of her hand. Further, it is not stated by PW1 as to what was done by the appellant after holding her hand and what she meant by 'trying to rape her'. No other acts of the appellant are stated, except for catching hold of the hand. From the evidence it can be inferred that either the gestures or the approach of the appellant, the victim had an apprehension that the appellant had caught hold of her hand to rape her.

9. To attract an offence under Section 354 of the Indian Penal Code, using criminal force or assault intending to outrage the modesty, are the ingredients. Forcibly catching hold of the hand or making any kind of gestures which the victim had sensed that it was done to outrage her modesty, would suffice to attract Section 354.

10. However, keeping in view that apart from catching hold of the hand, the appellant had not done any other acts as narrated by PW1-victim, this Court deems it appropriate to convict the appellant/accused for the offence under Section 509 of the Indian Penal Code.

11. Accordingly, the Criminal Appeal is partly allowed and the conviction under Section 354 of the Indian Penal Code is hereby set aside and the appellant is convicted for the offence under Section 509 of the Indian Penal Code and sentenced to pay additional fine of Rs.20,000/-. If the appellant/accused fails to pay the fine of Rs.20,000/- within one (1) month from the date of this order, he shall undergo three (3) months Simple Imprisonment.

Miscellaneous applications pending, if any, shall stand closed.

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SD/-K.SRINIVASA RAO
JOINT REGISTRAR

SECTION OFFICER

To,

1. The Special Judge for Fast Tracking of Cases relating to Atrocities against Women-cum-IX Additional Sessions Judge, Warangal.
2. The Station House Officer, Kuravi Police Station, Warangal.
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad.(OUT)
4. One CC to SRI MAHADEV ANYAMRAMBHATLA, Advocate [OPUC]
5. Two CD Copies

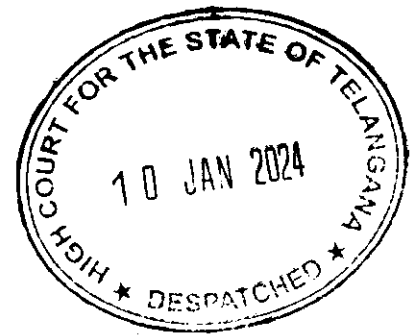
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HIGH COURT

DATED:14/12/2023

JUDGMENT

CRLA.No.133 of 2021



**THE CRIMINAL APPEAL
IS PARTLY ALLOWED**

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