

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

**FRIDAY, THE TWELFTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SRI JUSTICE SAMBASIVA RAO NAIDU

CRIMINAL APPEAL NO: 758 OF 2012

Criminal Appeal filed under Sections 378(3) & (1) of Cr.P.C., against the Judgment dated 19.02.2010 passed in S.C.No. 174 of 2008 on the file of the Assistant Sessions Judge at Bhongir, Nalgonda District.

Between:

The State of A.P., Rep. by its Public Prosecutor, High Court of AP.,
Hyderabad

...Appellant/Petitioner

AND

Yegamamidi Laxma Reddy, S/o Yegamamidi Ram Reddy, Age: 40 years,
Occ: Agriculture R/o Abid Nagar, H/o Ammanabole Village of Alair Mandal

...Respondent/Accused

Counsel for the Appellant : Public Prosecutor

Counsel for the Respondent : Sri Bethi Venkateswarlu

The Court delivered the following: JUDGMENT

THE HON'BLE SRI JUSTICE SAMBASIVA RAO NAIDU

CRL.APP.NO.758 of 2012

JUDGMENT:

This is a Criminal Appeal filed by the State being aggrieved by the judgment of the trial Court in SC.No.174 of 2008 dated 19-02-2010 by which the learned trial Judge find the sole accused not guilty for the offence under Section 354 of Indian Penal Code (for short 'I.P.C.') and acquitted him under Section 235(1) of Criminal Procedure Code (for short 'Cr.P.C.').

2. This appeal has been filed under Section 378 (3) & (1) of Cr.P.C. on the following grounds:

The judgment of the trial Court is contrary to law, weight of evidence and probabilities of the case. The Court below failed to appreciate the evidence of PWs.1 to 5 is cogent and clearly establishes the ingredients of the offence under Section 354 of I.P.C. against the accused beyond all reasonable doubt. The trial Court though there is sufficient evidence against the accused acquitted him on unreasonable grounds and not appreciating the evidence in a proper way. The appellant has claimed the acquittal of the accused is

erroneous, thereby, sought for setting aside the judgment and prayed for conviction of the respondent/accused.

3. As could be seen from the impugned judgment, it shows that the accused has been prosecuted by the State with an allegation that he has used criminal force against one Y.Santosh, who was examined as PW.2 before the trial Court with a view to outrage her modesty, thereby, committed an offence under Section 354 of I.P.C.

4. The prosecution has alleged that on 13-02-2008 at about 6.00 p.m., while the above said Santosh was proceeding from agricultural lands to her house through the cattle shed of the accused, the accused followed her, caught hold of her and tried to catch her right leg, thereby, outraged her modesty. When PW.2 raised cries, accused left her by asking her not to disclose the above incident to others. The prosecution further alleged that PW.2 went to her house and informed the said incident to her husband, who was examined as PW.1 and PW.1 in turn informed the said incident to PWs.3 and 4. It is also clear from the record that PW.1 presented a report to police at 11.30 a.m., on the next day i.e., on 14-02-2008 and based on the said report, the police have

registered a case against the accused, took up the investigation. PW.6, the Investigating Officer, who laid charge sheet against the accused, has alleged that he has examined PWs.1 to 4, conducted a panchanama at the scene of offence, effected the arrest of accused and laid charge sheet.

5. In order to prove the charge framed against the accused, the prosecution has examined six (6) witnesses. PWs.1 and 2 are the couple. According to the prosecution, PW.2 being the victim supported the case of prosecution and PW.1 deposed about his coming to know the offence through his wife and also about his enquiring the accused and informing the incident to PWs.3 and 4. PWs.3 and 4 are not eye-witnesses to the offence and what all they stated before the Court is here say. According to the evidence adduced by the prosecution, it is very clear that except PW.2, the other witnesses have no personal knowledge about the alleged offence. According to PW.2, while she was going to her house through the cattle shed of the accused, he said to have followed her, caught hold her right leg with a view to outrage her modesty, therefore, she raised hue and cries.

6. It is not the case of PW.2 that somebody came to her rescue. Though the offence said to have occurred at 6.00 p.m., on 13-02-2008, the report about the incident was presented to the police at 11.30 a.m., on 14-02-2008. The trial Court while questioning the delay in sending the FIR to the Court opined that there is abnormal delay in sending the report to the Court, therefore, it creates any amount of doubt whether really the report was presented at 11.30 a.m., as was endorsed on the complaint or whether the same was filed at a belated stage.

7. There is no explanation by the material witnesses as to why there was delay in lodging the complaint. It is not the case of PW.1 that he with a view to protect the reputation or honour of his wife delayed in presenting the report because he himself deposed before the Court that he along with his wife approached the accused and tried to enquire him about the offence and accused said to have attacked him. Thereafter, he had approached PWs.3 and 4 and informed them about the alleged offence. In view of the said peculiar circumstances, the prosecution cannot claim that the delay in presenting the report was explained. Except the evidence of

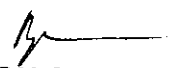
PW.2, there is no other evidence to believe that there was such an attempt by the accused to outrage her modesty. In view of the inordinate delay in presenting the report and sending FIR to Court, it creates any amount of doubt whether there was such an offence. Therefore, the learned trial Judge while not accepting the evidence of PWs.1 and 2 and as there was no corroboration to the deposition, rightly found the accused not guilty and acquitted him for the charge under Section 354 of I.P.C. The prosecution is not able to explain as to the delay as well as the other circumstances. Therefore, there are no merits in the appeal, as such, it is liable to be dismissed.

8. In the result, the appeal is dismissed. The judgment of the trial Court, where under accused was acquitted under Section 235 (1) Cr.P.C. has been confirmed.

Consequently, Miscellaneous Petitions if any, are closed.

SD/- CH.VENKATESWARLU
DEPUTY REGISTRAR

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SECTION OFFICER

To,

1. The Assistant Sessions Judge at Bhongir, Nalgonda District. (with records, if any)
2. The Station House Officer, Alair Police Station, Nalgonda.
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad. [OUT]
4. One CC to Sri Bethi Venkateswarlu, Advocate [OPUC]
5. Two CD Copies

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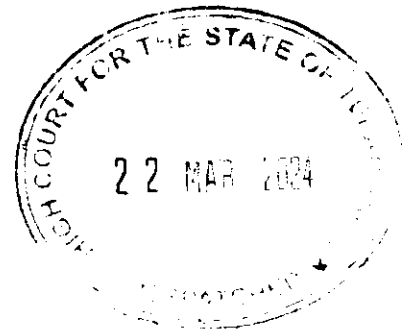


HIGH COURT

DATED:12/01/2024

JUDGMENT

CRLA.No.758 of 2012



DISMISSING THE CRL. APPEAL

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