

**BAIL SLIP :** The Petitioner / Accused was directed to be released on bail by the Order of the High Court dated 25-11-2009 made in CrI.R.C.M.P.No. 2827 of 2009 in CrI.R.C.No.2023 of 2009

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

WEDNESDAY, THE TWENTY THIRD DAY OF OCTOBER  
TWO THOUSAND AND TWENTY FOUR

**PRESENT**

**THE HONOURABLE SRI JUSTICE E.V.VENUGOPAL**

**CRIMINAL REVISION CASE NO: 2023 OF 2009**

Criminal Revision Case filed under Section 397 and 401 of Cr.P.C. against the Judgment dated 13-10-2009 made in CrI.A.No.96 of 2008 on the file of the Court of the Judge, Family Court-cum-Addl. Dist. and Sessions Court, Adilabad, preferred against the Judgment passed in S.C.No.41 of 2008 dated 29-09-2008 on the file of the Court of the Assistant Sessions Judge, Adilabad.

**Between :**

Khatmude Khandu, S/o.Maruthi, Aged about 24 years, Occ. Agriculture, R/o. Sakinapur, Taluq Jyuthi, Dist. Chandrapur, Presently Residing at Bhusimatta Camp of Jainoor Mandal, Dist., Adilabad

**...Petitioner / Accused**

**AND**

The State of A.P., through the S.I. of Police, Jainoor, Represented by the Public Prosecutor, High Court of Andhra Pradesh, Hyderabad

**...Respondent / Respondent**

**Counsel for the Petitioner : Sri S Chandrasekhar**

**Counsel for the Respondent : Sri E Ganesh  
Assistant Public Prosecutor**

**The Court made the following Order :**

**THE HON'BLE SRI JUSTICE E.V.VENUGOPAL**

**CRIMINAL REVISION CASE No.2023 OF 2009**

This Criminal Revision Case is filed by the petitioner/accused under Sections 397 and 401 of Cr.P.C., aggrieved by the judgment dated 13.10.2009 passed in Criminal Appeal No.96 of 2008 on the file of the learned Judge, Family Court-cum-Additional District and Sessions Judge at Adilabad wherein and whereunder the findings made vide judgment dated 29.09.2008 in SC No.41 of 2008 by the learned Assistant Sessions Judge at Adilabad convicting and sentencing the petitioner to undergo rigorous imprisonment for three years and to pay a fine of Rs.500/-, in default to suffer simple imprisonment for one month for the offence under Section 354 IPC were confirmed.

2. Heard Sri S.Chandrasekhar, learned counsel for the petitioner and Sri E.Ganesh, learned assistant public prosecutor, representing learned public prosecutor for the State/respondent.

3. SC No.41 of 2008 for the offence punishable under Section 354 IPC was registered on the complaint lodged by the de-facto complainant dated 12.11.2006 alleging that on 09.11.2006 at about 03.30 p.m. when she alone was in the agricultural field and plucking cotton, the petitioner/accused came from her backside and caught-hold her mouth with hands and pushed her on earth with an intention to outrage her

modesty, however, she escaped from the scene with hue and cry. She further stated that due to ill-health, though the misdeed of the petitioner was informed to her husband and others, she complained the same to the police belatedly.

4. The police, upon receipt of the said complaint, registered a crime in FIR No.37 of 2006 and investigated into the matter and apprehended the petitioner and after completion of investigation, laid charge-sheet.

5. To substantiate its case, the prosecution, during trial, examined the de-facto complainant/victim as PW1, her husband as PW2, her mother-in-law as PW4, circumstantial witnesses as PWs.3 and 5 and the investigating officer as PW6 and exhibited documents under Exs.P1 to P3.

6. Learned counsel for the accused/petitioner denied the allegations leveled against him contending that in view of the previous quarrel between PW2 and the petitioner, without there being any acts attracting the offence under Section 354 IPC, PWs.1, 2 and 4 have falsely implicated him in the present case by using the Section as a weapon with a delay of three days in lodging the present complaint. However, no oral or documentary evidence is adduced on behalf of the accused.

7. The trial Court, basing on the material available on record and the evidence adduced, has found the petitioner/accused guilty holding

that sole testimony of PW1 can be considered since it was occurred in the fields and that previous litigation cannot be treated as a ground for lodging the present complaint against the accused as the accused did not initiate any steps to register the said quarrel with the police and that the prosecution, by adducing cogent, corroborating and convincing evidence in the form of PWs.1 to 6, found the petitioner guilty and sentenced him as stated above.

8. Aggrieved by the findings of the trial Court, the petitioner/accused preferred Criminal Appeal No.96 of 2008 on the file of the learned Judge, Family Court-cum-Additional District and Sessions Judge, Adilabad mainly contending that the trial Court failed to appreciate the evidence in a right perspective and erroneously found the accused guilty basing on the testimony of the hear-say witnesses, failed to consider the previous litigation between the petitioner and husband of the victim with regarding to pathway passing into the fields of accused and failed to consider the delay of three days in lodging the complaint with police.

9. The learned District Judge, after re-appreciating the evidence, has dismissed the said appeal holding that the evidence of PWs.1 to 6 coupled with Exs.P1 to P3 categorically established the offence committed by the petitioner and that the trial Court has properly

appreciated the said evidence and documents and came to a correct conclusion and hence, the said findings cannot be disturbed.

10. Aggrieved by the said findings, the petitioner/accused preferred the present criminal revision case mainly contending that in-spite of admission of the prosecution evidence with regard to existence of enmity between the petitioner and PW2 and the delay in lodging a complaint, the Courts below have erroneously found the petitioner guilty without there being any edifice established by the prosecution witnesses to constitute an offence punishable under Section 354 IPC.

11. On the other hand, learned assistant public prosecutor vehemently opposed the present criminal revision case mainly contending that both the Courts below have appreciated the evidence in a right perspective and upon scrutinizing meticulously the facts and circumstances of the case and evidence available on record only found the petitioner guilty and hence, the said findings cannot be interfered with and the grounds urged through this criminal revision case do not have any force.

12. This Court perused the judgments of both the trial Court and appellate Court and the evidence adduced. The essential ingredients of the offence under Section 354 IPC are that the person assaulted must be a woman, ~~the~~ accused must have used criminal force on her and

that the criminal force must have been used on the woman intending thereby to outrage her modesty. So far as using of criminal force on her with an intention to outrage her modesty is concerned, the evidence of PW1 is crucial. She being a victim, during her chief-examination has depicted the misdeed committed by the petitioner. Her evidence goes to show that after escaping from the petitioner, PW1 went to the fields of PW3 with hue and cry where she found PW2 and one Limbadri and narrated the act of the petitioner and hence, they all tried to catch the petitioner but he escaped from the scene. PWs.2 i.e. the husband of PW1, PW3 i.e. the neighbouring field owner and PW4 i.e. the mother-in-law of PW1 have corroborated the said fact to some extent. Though PWs.2 and 3 were not in the scene, they saw the victim coming from fields with hue and cry and upon her explaining the scene, they tried to catch the petitioner but he escaped. PW4 deposed that she was with PW1 for some time in the field and after 3.00 p.m. she left to home and at about 05.00 p.m. PW1 came to home and explained the scene to her. Evidence of PW5 goes to show that after the incident, when a panchayat was conducted in the village, the petitioner denied the allegations leveled against him and accordingly, all have decided to lodge a complaint against the petitioner. Evidence of PW5 proves existence of previous enmity between the petitioner and PW2 since he conducted a panchayat when the petitioner caused damage of cotton crop in the fields of PW2. Evidence of PW6 goes to show that he conducted

investigation in the matter and during the course of investigation he arrested the petitioner.

13. When the evidence on record is evaluated, the delay in lodging a complaint cannot be treated as an impediment to fix the liability of the accused since, evidence on record shows that efforts were made to settle the matter in the panchayat and since the accused did not admit his complicity, the elders have advised the victim to lodge a complaint with the police. Further, the existing animosity between the petitioner and PW2/husband of the victim cannot be treated as a tool to cover-up the misdeed of the petitioner, which is proved by the evidence of PWs.1 to 4. The prosecutrix made such a hue and cry immediately after the incident and the reaction of the prosecutrix is very much relevant to take note of the whole incident. The plea urged on behalf of the petitioner, that evidence of PW1, who is the informant, could not have been accepted by the Courts below to record conviction under Section 354 IPC without corroboration is concerned, the same cannot be countenanced as Section 134 of the Indian Evidence Act provides that no particular number of witnesses is required in any enquiry or trial for proof of any fact. Section 133 of the Indian Evidence Act also can be taken note of in this context, which provides that evidence of an accomplice does not require corroboration and any conviction based on uncorroborated evidence of an accomplice shall not be invalid. Now if uncorroborated

testimony of an accomplice can be the basis for conviction of an accused, evidence of a solitary witness cannot be rejected on the ground that the same is not corroborated by independent evidence. No doubt in cases where evidence of sole witness is not of that sterling quality, the Court may seek corroboration to the testimony of the sole witness. But there is no rule of law or evidence that testimony of a sole witness must be corroborated through other independent evidence, before an order of conviction is recorded by the Court. The evidence of PW5 also proved the incident and further steps to pacify the issue by way of a settlement.

14. When the above factual matrix of the case on hand are viewed from the view expressed in the above paragraph and settled preposition of law laid down, the findings of the trial Court as well as the appellate Court cannot be termed as erroneous or perverse. Further, the prosecution could able to establish the guilt of the petitioner/accused by adducing evidence in the form of PWs.1 to 6 and on the other hand, the petitioner/accused failed to rebut the same and the grounds urged through this criminal revision case have no force warranting interference of this Court with the well considered findings. In that view of the matter, the findings of the trial Court and the appellate Court cannot be termed as erroneous and perverse and hence, the present criminal revision case is liable to be dismissed.

15. Learned counsel for the petitioner by relying upon the decision of Hon'ble Supreme Court rendered in a case between **Raj Kumar Alias Raju Yadav Alias Raj Kumar Yadav Vs.State of Bihar**<sup>1</sup> submitted that in the event of confirming the findings of the trial Court as well as the appellate Court, the period of sentence awarded against the petitioner may be given set off reducing the same to the period already undergone by the petitioner. In the case on hand, the petitioner had already undergone rigorous imprisonment for the period from 15.11.2006 to 21.03.2007 and as per orders of this Court in CrI.RCMP No.2827 of 2019 dated 25.11.2009 he was granted interim suspension of sentence and was enlarged on bail. In view of the long pendency of the present criminal revision case and the efforts of the petitioner from the inception of the incident i.e. from the year 2008 to come wriggle out of the litigation, this Court is of the opinion that the petitioner might have suffered mental agony in roaming around the Courts and in suffering rigorous imprisonment for some time and hence, it is appropriate to take a lenient view in his favour by setting off the sentence by decreasing the same to the period, which he had already undergone while withholding the fine amount. Accordingly, the period of imprisonment imposed by the trial Court and confirmed by the

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<sup>1</sup> (2006) 9 Supreme Court Cases 589

appellate Court against the petitioner is reduced to the period which he had already undergone while withholding the fine amount.

16. In the result, except the above modification, this criminal revision case is dismissed on all other aspects. Miscellaneous application if any pending shall stand closed.

**Sd/- N. CHANDRA SEKHAR RAO**  
**DEPUTY REGISTRAR**

**//TRUE COPY//**

  
**SECTION OFFICER**

To,

1. The Judge, Family Court-cum-Additional District and Sessions Court, Adilabad (with records, if any)
2. The Assistant Sessions Judge, Adilabad
3. The Station House Officer, Jainoor, Adilabad District
4. The Superintendent, Central Jail, Warangal
5. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad (OUT)
6. One CC to Sri S Chandrasekhar, Advocate [OPUC]
7. Two CD Copies

svs/va/gh



HIGH COURT

DATED:23/10/2024

ORDER

CRLRC.No.2023 of 2009



DISMISSING THE CRLRC

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