
(2010) 08 AP CK 0041

In the Andhra Pradesh High Court

Case No : Criminal Revision Case No. 430 of 2003

Dhannula Govindaraju

APPELLANT

Vs

State of A.P. and Boosarapu Manga Devi Rao

RESPONDENT

Date of Decision : 05-08-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 397, 401
Penal Code, 1860 (IPC) — Section 324, 34, 354, 506, 509

Citation : (2010) 2 ALD(Cri) 988 : (2011) CriLJ 395 : (2011) 7 RCR(Criminal) 1785

Hon'ble Judges : Gopala Krishna Tamada, J

Bench : Single Bench

Advocate : C. Praveen Kumar, for the Appellant; Public Prosecutor, for the Respondent

Final Decision : Dismissed

Judgement

Gopala Krishna Tamada, J.—The Petitioner herein was convicted by the learned Assistant Sessions Judge, Amalapuram, East Godavari District, in SC No. 213 of 1998 for the offence u/s 354 of IPC and sentenced to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs. 1,000/- and in default of payment of fine, to further undergo simple imprisonment for six months. The said judgment dated 19.6.2000 was questioned by the Petitioner by filing Criminal Appeal No. 237 of 2000 and the learned V Addl. Sessions Judge (Fast Track Court), West Godavari, Rajahmundry, by his judgment dated 3.2.2003, while concurring with the findings recorded by the trial court, had dismissed the appeal. Hence, the Petitioner approached this Court by filing the present Criminal Revision Case invoking jurisdiction of this Court u/s 397 and 401 of Code of Criminal Procedure.

2. The case of the prosecution in brief is that there are disputes between the families of the Petitioner and the parents of PW-1 who is the victim herein and a married woman. Previously, the younger sister of PW-1 was kidnapped and the

Petitioner herein and others were arrested in connection with the said crime, registered as to girl missing, and the said case is pending trial. While so, on 18.1.1998, PW-1 came to her parents house at D. Ravulapalem on the eve of Sankranthi festival and along with her friends, distributed sweets in all the houses except the house of the Petitioner and as such the Petitioner herein abused PW-1 and there ensued heated exchange of words. In that temper, the Petitioner is said to have warned PW-1 that he would do the same thing as to what he did to her youngest sister. Saying so, he caught hold of the tuft of hair of PW-1 and dragged her into his house and on her raising cries, PWs 2, 4 and others went to the spot. Thereafter, PW-1 was brought to the police station by her father, where a complaint was lodged. It is further stated that a counter case in Cr. No. 10 of 1998 for the offence u/s 506, 509 and 324 read with Section 34 IPC was registered against some of the witnesses for having beat the Petitioner, his mother and sister when they intervened to rescue the Petitioner herein.

3. To bring home guilt of the accused, the prosecution examined PWs 1 to 6 and Exs. P-1 to P-3 were marked. No witnesses were examined on behalf of the Petitioner but Exs. D-1 and D-2 were marked. Having analysed the oral and documentary evidence, as stated supra, the Petitioner was found guilty of the said charge by both the trial court and the appellate court. Hence, this revision.

4. Learned Counsel for the Petitioner Sri C. Praveen Kumar, contends that the offence u/s 354 of IPC is not made out. According to him, the required intention is not there and, as such, it cannot be said that the Petitioner has committed the offence u/s 354 IPC. He also contends that there is a case and counter, at the instance of the sister of the Petitioner herein in Cr. No. 10 of 1998, registered against the family members of PW-1. It is further submitted by the learned Counsel for the Petitioner that the evidence of PWs 1, 3 and 5 is totally interested and, as such, the court below ought not to have accepted the said evidence in holding the Petitioner guilty of the offence u/s 354 IPC.

5. Per contra, learned Public Prosecutor opposed the said submissions and contends that the courts below have rightly concluded that the Petitioner is guilty of the offence u/s 354 IPC and it is not a case for interference.

6. Section 354 of IPC deals with the assault or criminal force to woman with an intention to outrage her modesty of course , from the said provision it is clear that there must be intention to outrage the modesty of the woman. From the above, it cannot be said that in every case, where the modesty of woman is outraged, the said intention shall be specified. From the facts and circumstances, the court can definitely infer as to whether the accused is having required intention or not. Even if there is no deliberate intention, if the accused person is having the knowledge that modesty is likely to be outraged, it is sufficient to constitute the offence. The evidence of PWs 1, and 5 clinchingly establish that the Petitioner intentionally abused them and on provocation, when PW-1 retorted, the Petitioner dragged her inside the house by catching hold of the tuft of hair. The said act in my considered view, would definitely attract the provision

of Section 354 of IPC. It is not as though the said evidence is not corroborated. PWs 3 and 5 clearly stated that they have seen the Petitioner dragging PW-1. of course , as contended by the learned Counsel for the Petitioner, PWs 3 and 5 are the close relatives of PW-1 i.e. sister and brother, but on that sole ground, I am not inclined to reject the said evidence, as the said evidence clearly establishes the guilt of the Petitioner. Interestedness may be an aspect to discredit the testimony of the witnesses, if the evidence does not corroborate in material particulars. But when the said evidence is clinching and corroborative in all aspects, definitely the court can act on the said evidence, though it is interested. After all, in cases of this nature, it cannot be expected that some strangers will come forward and speak as to what had happened at that particular point of time and only the inmates of the house like PWs 3 and 5, can be expected to speak as to what exactly had happened. Hence, the said contention that PWs 3 and 5 are interested and their evidence cannot be acted upon, is rejected. In the light of the evidence of PWs 1, 3 and 5, this Court is of the view that the prosecution has brought home the guilt of the accused i.e. the Petitioner herein for the offence u/s 354 IPC. In fact, the entire evidence was discussed by the trial court and the appellate court and held that the Petitioner is guilty of the offence punishable u/s 354 IPC. As such, the same, in my considered view, needs no interference.

7. However, taking the totality of the facts and circumstances into consideration i.e. the date of offence, period of sentence the Petitioner had undergone, this Court is of the view that the sentence of five years simple imprisonment imposed by the courts below can be reduced to two years, which is the minimum sentence of imprisonment for the offence u/s 354 IPC.

8. Accordingly, this Criminal Revision Case is dismissed. But, however, the sentence of five years simple imprisonment imposed by the courts below, is reduced to two years simple imprisonment. The Petitioner shall surrender himself to serve out the remaining part of sentence.

9. With this modification in the sentence of imprisonment, the Criminal Revision Case is dismissed confirming the impugned judgment in all other aspects.