
(2002) 02 AP CK 0112

In the Andhra Pradesh High Court

Case No : Criminal Revision Case No. 54 of 2000

Guntagani Ananda Rao

APPELLANT

Vs

State of Andhra Pradesh

RESPONDENT

Date of Decision : 20-02-2002

Acts Referred:

Penal Code, 1860 (IPC) — Section 354

Citation : (2002) 02 AP CK 0112

Hon'ble Judges : Gopala Krishna Tamada, J

Bench : Single Bench

Advocate : K. Ravindra Babu, for the Appellant; Public Prosecutor, for the Respondent

Final Decision : Dismissed

Judgement

Gopala Krishna Tamada, J.—The petitioner and two others were tried by the III Metropolitan Magistrate, Vijayawada, in C.C.No.345 of 1991 for the offence punishable u/s 354 IPC and the trial court found the petitioner guilty of the offence and accordingly sentenced A.1 to undergo R.I. for 6 months and to pay a fine of Rs.3000/- in default to suffer S.I. for 3 months. In appeal the learned Metropolitan Session Judge confirmed the same.

2. The case of the prosecution is that the petitioner and the de facto complainant, who was examined as P.W.1 are residents of the same locality and on 7-8-1991 at about 3.P.M. when P.W.1 went to the sundry shop along with her brother for purchasing provisions, the petitioner caught hold of her tuft of hair, dragged her, and demanded her to come with him to have sexual intercourse. In the said process he removed her saree. When L.W.2 interfered, the other accused beat him with hands. Further in view of the resistance offered by P.W.1, A.1 beat her with hands and torn her saree. Basing on the complaint given by P.W.1 the criminal law is set in motion and after investigation, the charge sheet is filed against the petitioner and two others for the offence punishable u/s 354 IPC.

3. In all the prosecution examined 5 witnesses. P.W.1 is the victim herself and the report given by her is marked as Ex.P-1. P.W.2 is the brother of P.W.1 who accompanied her to the sundry provision shop. P.W.3 is the mother of P.W.1. P.W.4 is the medical officer, who examined her on the same day and issued wound certificate marked as Ex.P-2. P.W.5 is the investigating officer, who registered the FIR marked as Ex.P-3.

4. The learned counsel for the petitioner tried to impress upon this court stating that there are vital discrepancies in the evidence of P.Ws.1 to 3 and they are all interested witnesses and as such basing on the interested and discrepant testimony, the petitioner cannot be convicted. His next submission is that according to the case of the prosecution the alleged offence took place at 3.P.M., whereas the report was given at 9 P.M. i.e. after 6 hours and no explanation was forth coming for the said delay and as such it is fatal to the case of the said prosecution. He summed up his arguments with another submission that the prosecution witnesses did not identify the petitioner and there was no Test Identification period and as such identifying the petitioner for the first time in the court is valueless.

5. I am afraid if these submissions are accepted as they are, I do not think there would be any case where the courts can convict the accused. It is but natural that some minor discrepancies might have occurred in the evidence of the prosecution witnesses.

6. In the instant case the alleged offence took place on 7-8-1991 whereas, after lapse of one year P.Ws.1 to 3 were examined (i.e. P.W.1 was examined on 25-8-1992 and P.W.3 was examined on 29-12-1992). As already observed, it is but natural in the evidence of the prosecution witnesses that there would be some minor discrepancies. What is to be looked into by the courts is as to whether this evidence by the prosecution witnesses is consistent throughout or not, or the discrepancies of these witnesses would go to the root of the case. In the instant case the witnesses have spoken in unequivocal terms about the actual offence that had taken place. The minor discrepancy has no relevance and accordingly his contention is rejected.

7. So far as the second submission, i.e. the delay of 6 hours is concerned, it is true that according to the case of the prosecution the incident happened at 3 P.M. and the report was given at 9.P.M. In each and every case it cannot be said that the delay is fatal to the case of the prosecution. No doubt, delay is a factor depending on various circumstances. Here is a girl whose modesty was outraged at the instance of the petitioner and in such a situation no woman would go to the police station straight away and give a report that her modesty was outraged. Normally a respectable woman would hesitate to report such matters. Such report would be made only after consultation with the family members. In the instant case also the same thing happened. It is only after consultations with her mother, brother and other interested persons, she went to the police station and reported the matter at 9 P.M. and as such it cannot be said that the delay is

fatal to the prosecution in the instant case.

8. Coming to the third submission that there was no identification parade and the petitioner was identified for the first time by P.Ws.1 to 3 is of no consequence. Admittedly the victim, who was examined as P.W.1 stated that her brother P.W.2 and mother P.W.3 are residing in the same locality, where the petitioner is residing. When all are residents belong to the same locality it is not improbable to say that P.W.1 could not identify the petitioner.

9. However in view of the fact that the offence took place on 7-8-1991 i.e., about 11 years back, I take a lenient view and reduce the sentence of 6 months to 3 months. With this modification in the sentence, the revision is dismissed.