

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.214 of 2008

JUDGMENT:

This Criminal Appeal is filed by the State challenging the judgment of the Assistant Sessions Judge, Nirmal dated 25.07.2006 in S.C.No.292 of 2004 whereby the learned Assistant Sessions Judge found the accused not guilty of the offences under Sections 354, 506(1) and 323 IPC and acquitted them of the said charges.

The brief facts of the case of the prosecution are as follows:

P.W.1 is resident of Kowta village and P.W.2 is her daughter. A.2 is the father of A.1 and A.3. On 2.6.2003 at about 9.00 p.m., while P.W.1 was alone in the house, A.1 came to her in a drunken condition, caught hold of her hand and attempted to commit rape on her. On hearing the cries of P.W.1, her daughter-P.W.2, who is in the neighbour's house, rushed to P.W.1 and on seeing P.W.2, A.1 ran away. On the next day, while P.W.1 along with P.W.2 was proceeding to the police station for reporting the incident to the police, all the accused obstructed her, beat her with hands and threatened to kill her and P.W.2, if the matter is reported to the police. On the complaint lodged by P.W.1, police registered the case for the said offences and after completion of investigation, laid the charge sheet against all the accused.

In order to bring home the guilt of the accused, prosecution examined P.Ws.1 to 7 and marked Exs.P.1 to P.10. On behalf of defence, no oral or documentary evidence was adduced.

The trial Court after evaluating the entire evidence brought on record more particularly, the evidence of P.Ws.1 and 2 acquitted the accused of the charges.

Heard the learned Additional Public Prosecutor and learned counsel for respondents-A.1 to A.3 and perused the material brought on record.

The evidence of victim-P.W.1 is totally contrary to the case projected by the prosecution. It is the case of P.W.1 that A.1 entered into her house, caught hold of her hand and tried to commit rape on her. On hearing her hue and cries, P.W.2 reached the house and on seeing her, A.1 ran away from the scene of offence. On the next day, when she was proceeding to police station to lodge a complaint, all the accused attacked them, beat them and criminally intimidated them. Whereas, it is the case of P.W.2, who is the daughter of P.W.1 that on the same date of occurrence, on hearing the cries of P.W.1 she rushed to her house and on seeing her, A.1 left the place after beating her. Thus according to P.W.1, the attack on them was on the next date of occurrence i.e. on 3.6.2003, but as per P.W.2, the attack was on 2.6.2003 immediately, after the main occurrence. Further the accused as well as P.Ws.1 and 2 are closely related to each other. A.1 is father-in-law of P.W.1 and A.2 and A.3 are her brother-in-laws. Even admitting the evidence of P.Ws.1 and 2 regarding the occurrence, the alleged act of accused does not constitute an offence under Section 354 IPC. The evidence of doctor who treated P.Ws.1 and 2 is also not corroborated the oral evidence adduced by the prosecution. Thus the prosecution miserably failed to prove the

charges levelled against the accused. The learned trial judge by extending the benefit of doubt in favour of the accused, rightly acquitted them of the charges. Hence, no grounds are made out to interfere with the impugned order of acquittal recorded by the trial Court.

In the result, the Criminal Appeal fails and the same is accordingly dismissed.

Miscellaneous Petitions, if any, pending shall stand closed.

29.08.2016
Tsr



RAJA ELANGO, J