

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

Criminal Appeal No.1531 OF 2009

Between:

The State of A.P. rep. by
Public Prosecutor

... Appellant

And

Morigadi Shyam.

..Respondent/accused

DATE OF JUDGMENT PRONOUNCED : 06.03.2024

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

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|--|--------|
| 1 Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3 Whether Their Ladyship/Lordship Wish to see their fair copy of the Judgment? | Yes/No |

K.SURENDER, J

*** THE HON'BLE SRI JUSTICE K. SURENDER**

+ CRL.A. No.1531 of 2009

% Dated 06.03.2024

The State of A.P.
rep. by Public Prosecutor

And

... Appellant

\$ Morigadi Shyam

..Respondent/accused

! Counsel for the Appellant: Public Prosecutor

^ Counsel for the Respondent: Sri A.Prabhakar Rao

>HEAD NOTE:

? Cases referred

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL APPEAL No.1531 OF 2009****JUDGMENT:**

1. This Criminal Appeal is filed by the State aggrieved by the acquittal recorded under Section 354 IPC and Section 3(1)(xi) of SCs/STs (POA) Act, 1989 vide judgment in SC No.36 of 2007 dated 15.02.2008 passed by the Special Sessions Judge for SC/ST (POA) Act at Nalgonda.

2. Briefly, the case of the prosecution is that on 02.12.2004 at 10.00 a.m when P.W.2 went out towards water tank for grazing goats, the accused caught hold of her and pulled her. In the incident, the blouse and petticoat were pulled and threatened not to raise any alarm. On hearing her, P.Ws.3 and 5, who were also grazing goats in the nearby fields rushed towards the victim girl (P.W.2). On seeing them, the accused let her off and escaped from there. On the very same day at 5.00 p.m, victim girl informed to her parents and complaint was lodged.

3. Learned Sessions Judge examined P.Ws.1 to 9 and marked Exs.P1 to P7 on behalf of the prosecution. MOs.1 and 2 which are torn wearing apparel of victim/P.W.2 were also marked. Learned Sessions Judge, having considered the evidence on record found that the case against accused was filed as a counter blast case to the case filed by the accused against Sarpanch Anjaiah and two others namely, N.Kumar and N.Gopal. Further, there was an altercation with P.W.2 since she was grazing goats without permission of the accused in his fields.

4. Learned Sessions Judge further found that P.Ws.1 to 5 who stated about the incident belong to one family. According to the witnesses, the place where P.W.2 was grazing goats was visible to P.w.5 and P.W.3. However, she stated that they came to the place of incident 10 minutes after the incident. The allegation that MOs.1 and 2 which are wearing apparel of the victim girl were torn by the accused, however, the said tearing of the clothes by the accused when the incident happened was not stated in the complaint. If really, MOs.1 and 2 were torn at

the incident when the accused used force, there would have been a mention in the complaint itself.

5. Learned Sessions Judge further found that Ex.P1 is silent about the presence of P.W.5 at the time of the incident. However, it is the case that after the incident P.W.5 was the person who brought her back to the house. If the place where P.W.2 was grazing goats was visible to P.Ws.3, 4 and 5, the accused would not have made any attempt to molest PW.2.

6. On the basis of the said finding, learned Sessions Judge recorded acquittal.

7. Learned Public Prosecutor would submit that the evidence of P.W.2 would suffice to infer that the incident has taken place and on account of the force used by the accused, wearing apparel was torn. The circumstance in itself would indicate that the accused had committed the offence.

8. The trial Courts have the benefit of recording evidence and also examining demeanor of the witnesses. Further, the assessment about the witnesses and sequence of events

narrated by the witnesses, the trial Court would be in an advantageous position to adjudicate upon the cases. In cases of acquittal recorded by the trial Courts, after conducting trial, it reinforces the factum of innocence of accused. Unless there are compelling circumstances to interfere with the findings of the Trial Judge, the appellate Court cannot interfere with such orders of acquittal.

9. Learned Sessions Judge had clearly indicated in the judgment that there was a motive for false implication and P.W.1 was responsible for false implication. P.Ws.1 to 5 are family members and the very narration in the Court that P.W.5 went to the place of incident and brought her back is not mentioned in Ex.P1. The tearing of clothes in the incident on account of use of force by the accused is also not mentioned in the complaint. Further, when P.Ws.3, 4 and 5 were at a visible distance, the possibility of the accused indulging in such acts would not arise. Further, there was an altercation regarding P.W.2 grazing goats in the fields of the accused.

10. The said findings of the learned Sessions Judge do not require any intervention since they are reasonable and based on the evidence on record.

11. Accordingly, the Criminal Appeal is dismissed.

K.SURENDER, J

Date: 06.03.2024

Note: LR copy to be marked

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THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL APPEAL No.1531 OF 2010

Dt. 06.03.2024

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