

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

Criminal Appeal No.740 OF 2009

Between:

Kariveda Ravi and others.

...Appellants.

And

State of A.P.,
Rep.by its Public Prosecutor,
High Court, Hyderabad.

... Respondent.

DATE OF JUDGMENT PRONOUNCED: 03.08.2022

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

- | | | |
|---|--|--------|
| 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 the fair copy of the Judgment? | Yes/No |

* THE HON'BLE SRI JUSTICE K.SURENDER

+ CRL.A. No.740 of 2009

% Dated 03.08.2022

Kariveda Ravi and others

... Appellants

And

\$ State of A.P.,
Rep.by its Public Prosecutor,
High Court, Hyderabad

..Respondent.

! **Counsel for the Appellant:** C.Sharan Reddy,

^ **Counsel for the Respondent:** Public Prosecutor

> HEAD NOTE:

? Cases referred

HON'BLE SRI JUSTICE K.SURENDER
CRIMINAL APPEAL No.740 OF 2009

JUDGMENT:

1. The 1st appellant is convicted and sentenced to under go Rigorous Imprisonment for 7 years for the offence punishable under Section 376 IPC and further sentenced to undergo rigorous imprisonment for one year for the offence under Section 343 of IPC and also sentenced to undergo rigorous imprisonment for one year for the offence under Section 506 of IPC and also sentenced to pay fine of Rs.1,000/- for the offence under Section 3(2)(v) of SC/ST (POA) Act and, in default for payment of fine, shall suffer rigorous imprisonment for six months. The appellants 2 to 9 are convicted and sentenced to pay fine of Rs.1,000/- and in default of payment of fine, shall undergo simple imprisonment for a period of six months each for the offence under Section 201 of IPC. The Appellants 2 to 5 are convicted and sentenced to pay fine of Rs.1,000/-, in default of payment of fine, shall undergo simple imprisonment for six months for the offence under Section 3(2)(v) of SC & ST (POA) Act and the appellants 2 to 9 are

found not guilty for the offence under Section 506 of IPC and Appellants 6 to 9 are found not guilty for the offence under Section 3(2)(v) of SC/ST (POA) Act and accordingly acquitted vide judgment in S.C.No.102 of 2007 dated 29.06.2009 passed by the Special Sessions Judge for trial of cases under SC/ST (POA) Act, Khammam. Aggrieved by the same, present appeal is filed.

2. For the sake of convenience, the parties hereinafter will be referred as arrayed in the Sessions Case.

3. The case of the prosecution is that P.W.1 is the victim girl, who went to the field to attend coolie work as A1 called her. She did not find anyone in the field and when she was trying to return, A1 caught hold of her hand and forcibly gagged her mouth and committed rape on her. He repeatedly raped her over a period of three days. A1 was bringing food for her and as and when the A1 went out, he used to tie her hands and legs and only for the purpose of eating, she was untied. A1 also burnt P.W.1's face. On the third day, P.W.1

managed to untie her hands and went to her house and informed to her parents, sister, neighbors and others.

4. The matter was taken to the village elders who included A2 to A9, who convinced P.W.1 and parents not to lodge complaint and asked P.W.1 to receive an amount of Rs.25,000/- from A1. However after 15 days of the incident, the matter was reported to the police. A complaint was drafted under Ex.P7 and P.W.1 signed on the same.

5. On completion of investigation, the police found that the accused are responsible and charged under the relevant provisions. On completion of trial, the learned Special Judge having examined P.Ws.1 to 16 and marking Exs.P1 to P26 and also MOs.1 to 4 convicted the accused as aforementioned.

6. Learned counsel for the appellants submits that there is an inordinate delay of 14 days which remains unexplained. Further, if P.W.1 was missing for a period of three days what efforts were made to trace her or what the parent P.W.2 and others did is not stated by the prosecution. According to P.W.1 she was tied for a period of three days and her legs and hands

contained rope marks and also burnt mark on the cheek, however, no injuries were found when she was examined by the Doctor or the police. The entire case is doubtful for the reason of none of the witnesses stating anything about A2 to A9. However, the learned Special Judge convicted all the appellants for the offences, without there being any evidence.

7. On the other hand, learned Assistant Public Prosecutor submits that it is heinous crime perpetrated on 15 years old girl by A1 and supported by others. In the said circumstances, there cannot be any interference in the conviction recorded by the learned Special Judge.

8. P.W.1 narrated the incident stating that she was subjected to sexual intercourse for a period of three days and she was tied up throughout the said period. She had rope marks on hands and legs and also burnt marks on her cheeks. However, on examination by the Doctor P.W.10, she did not find any kind of injuries/marks either on the hands or on the legs to show that she was tied. Further, there is also no burnt injury, which was found on the face of P.W.1. P.Ws.3, 4, 5, 6

and 7 are all village elders who turned hostile to the prosecution case. P.W.7 is the scribe of Ex.P1, who stated that he had drafted the complaint on the dictation of P.W.1. P.W.8 is the scene of offence panch, however turned hostile to the prosecution case. The seizure of M.Os.2 to 4 was in presence of P.W.9 who is the scene of offence panch according to prosecution but he was also declared hostile to the prosecution case.

9. P.W.10 Doctor examined P.W.1 and also opined that the age of the girl may be 15 to 17 years. The said age determination was done on the basis of radiologist report and clinical examination. P.W.10 did not find any external injuries on the body of P.W.1, however, found old Hymen tear present in 7 O' clock position. P.w.12 is the Sub Inspector of Police, who registered the crime. PW.15 is the Investigating Officer who deposed that he took up investigation on 26.04.2005 and date of offence was 11.04.2005. He stated that he had examined P.W.1 on 26.04.2005 and also corrected the date of 20 as 26 in P.W.1's statement. Similarly, he also altered the

date '20' to '26' with respect to P.W.2 and LW33. P.W.15 also admitted that there were no burn marks on the cheek of P.W.1 and there were no signs of broken bangle piercing her hands or tying rope to her legs and hands.

10. P.W.16 is another Investigating Officer who stated that he cannot exactly say the width of the place at the scene of offence and he had also not mentioned about the measurements of the scene of offence. There were no other crops around the scene of offence. The scene of offence is a plain area. There is a path way existing near the scene of offence and the distance between the path way and scene of offence is about 25 feet.

11. The case of the prosecution is that for three days P.W.1 was restrained by tying hands and legs. However, the scene of offence is a plain land and it is highly improbable that P.W.1 would have been detained on plain land by tying her hands and legs when the path of village was 25 feet away from where the alleged scene of offence was. Exp6 is the scene of occurrence and observation panchanama. It was observed

that the scene is a plain land without any house, hutment or any dwelling area. The very genesis of the case becomes doubtful for the said reason. How a 15-17 year old girl was kept tied for a period of three days and how A1 committed rape on her in open land when the path way was at a distance of 25 feet and according P.W.1, village coolies used to pass that path during those three days.

12. The appellants 2 to 9 were allegedly the panchayat elders who asked P.Ws.1 and 2 to accept an amount of Rs.25,000/-. However, all the village elders have turned hostile to the prosecution case. For the said reason, there is no offence which is made out against Appellants 2 to 9 either under the provisions of SC/ST (POA) Act or under Section 201 of IPC.

13. Though P.W.1 claims that there were burn marks on cheeks and rope tied to her hands and legs, they were no such marks or burnt marks. It is not even the case that she was tied to some pole or tree, as such, the very narration of the prosecution case is highly improbable and cannot be believed. Actual happening is suppressed or the prosecution had come

up with a new case. Though no corroboration is required to the testimony of a rape victim, in the present case all the claims made regarding injuries, scene and recoveries were found to be false. Though a heinous crime is allegedly perpetrated, in the absence of any proof, there cannot be any moral conviction. In the said circumstances, the accused are entitled to get benefit for the reason of there being no proof of the allegations leveled against the appellants.

14. In the result, the impugned judgment in SC No.102 of 2007 dated 29.06.2009 is set aside and all the appellants are acquitted. Since the appellants are on bail, their bail bonds shall stand cancelled.

15. Accordingly, the Criminal Appeal is allowed.

K.SURENDER, J

Date: 03.08.2022

Note: LR copy to be marked.

B/o.kvs

HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL APPEAL No.740 OF 2009

Date: 03.08.2022.

kvs