

**THE HONOURABLE SRI JUSTICE K.SURENDER**

**CRIMINAL APPEAL No.44 of 2010**

**JUDGMENT:**

Aggrieved by the Judgment of conviction dated 14.09.2009 in S.C.No.62 of 2007 on the file of Special Judge for SC/ST (POA) Cases at Warangal, the appellant/accused has filed the present Criminal Appeal.

2. Heard Sri V.Ravi Kumar, Advocate, appointed by this Court to argue the case on behalf of the appellant and the learned Public Prosecutor for the State.

3. The case of the prosecution is that the appellant – *accused* had forcibly taken PW2 - *victim* into his house and closed the doors. Thereafter, he removed his clothes and forcibly removed the clothes of the victim girl and touched her all over her body. Further, the appellant tried to commit rape on PW2 – *victim* and she shouted for help. PW-4 and others arrived and on seeing them, the accused fled. The alleged incident happened in the house of the accused on 10.03.2007 and the complaint was given on 14.03.2007. On the basis of the said complaint, the police investigated the case and

filed charge sheet for the offence under Sections 354 of I.P.C. and 3(1)(xi) of SC/ST (POA)Act, 1989.

4. The learned Special Judge having examined witnesses PW1 to PW9 and marking Ex.P1 to Ex.P8, found the appellant guilty for the offences under Sections 354 of I.P.C. and 3(1)(xi) of SC/ST (POA)Act, 1989. The learned Special Judge, convicted the appellant for 5 years under both grounds.

5. Sri V.Ravi Kumar, learned counsel appearing for the appellant submits that on a plain reading of the evidence of PW's 1, 2 and 4, it would be apparent that a false case has been filed against the appellant. There are any amount of inconsistencies, contradictions and embellishments made in the evidence which go to the root of the case. Upon considering the evidence on record, there is any amount of doubt regarding the prosecution case being correct. The counsel had also taken this Court through the evidence of PW1 and PW2 and has drawn attention to the contradictions placed on record.

6. On the other hand, learned Public Prosecutor submits that the victim girl – PW2 was aged around 13 years and there is no reason why the girl aged 13 years would speak false about the appellant and implicate him in a false case. As seen from her evidence, the victim had narrated that the appellant had molested her and the acts amount to the offence punishable under Section 354 of I.P.C.

7. Having gone through the evidence, the defence of the appellant is that there were boundary disputes with PW-1 who is the grandmother of the victim and for the said reason; a false case was filed against the appellant. PW-1 has totally declined the boundary disputes with the appellant in her evidence. However PW-2 in her cross-examination stated that there were land disputes between PW-1 and the appellant. The villagers conducted panchayat in respect of the said land one year prior to the alleged incident. However, she was not aware of the decision of the panchayat. The said admission made by PW-2 clearly indicates that PW-1 had suppressed the disputes amongst her and the appellant. She has not spoken the truth before the Court and suppressed the events deliberately.

8. PW-1 in her cross-examination stated that the appellant had forcibly dragged PW-2 to his house. Admittedly, there are several houses adjacent to the appellant's house. However, none of the villagers had seen the appellant dragging PW-2 to his house. PW2 – *victim* stated during cross-examination that they stayed in the house of appellant for nine (09) hours, however, immediately she stated that they both stayed in the appellant's house from 05.30 p.m. to 9.30 p.m. and were sitting for the whole time. During such time, the accused sat with the victim without clothes for two hours and when she tried leaving the house, the appellant did not allow her to leave. Though the accused dragged and forcibly took the victim to his house, she did not receive any injuries on the body but there was an injury on the breast. The said injury was shown to the police and the police had referred her to the Doctor.

9. The Investigating Officer admitted that no injuries were found on the body of the victim. She was not sent to any Doctor for the purpose of examination.

10. The evidence of PW1 and PW2 when considered would go to show that they had stated facts which never occurred and appears

to be highly improbable. PW-2 states that they have stayed in the house of the appellant without clothes for two hours but the total duration was nine hours. Further, she has received injuries on her body. The said claim of receiving injuries is contrary to the investigation.

11. In the event of giving false evidence, such inconsistent and contrary versions would arise. It is highly improbable that in the midst of the village, if the appellant had dragged the PW2 – *victim* to his house, anyone of the villagers would have seen the said incident. However, it is the claim of the prosecution that she shouted from the house of the accused. As such, PW-4 came to the house of the accused. The said versions appear to have been made up for the purpose of the case.

12. Further, there is a delay of four days in lodging the complaint and no reasons are given as to why the delay of four days has occurred. An explanation is given that they were waiting for the parents of PW-2 to lodge a complaint. However, the parents of PW-2 were neither examined during the investigation nor called to depose before the Court.

13. In view of several discrepancies, this Court deems it appropriate to set aside the conviction and the accused is acquitted of both the charges. The bail bonds of the appellant shall stand cancelled.

14. Accordingly, Criminal Appeal is allowed.

Miscellaneous Petitions, pending if any, shall stand closed.

Date: 19.07.2023  
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**K.SURENDER, J**