

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

Criminal Appeal No.649 OF 2010

Between:

Thrimurthulu.

... Appellant

And

The State of Andhra Pradesh,
Rep. by its Public Prosecutor,
High Court Buildings, Hyderabad,
Through PS, Jeedimetla.

... Respondent

DATE OF JUDGMENT PRONOUNCED:

22.06.2023

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.649 of 2010

% Dated 22.06.2023

Thrimurthulu

... Appellant

And

\$ The State of Andhra Pradesh,
Rep. by its Public Prosecutor,
High Court Buildings, Hyderabad,
Through PS, Jeedimetla.

... Respondent

! Counsel for the Petitioner: Sri P.Ravi Shanker

^ Counsel for the Respondent: Public Prosecutor

>HEAD NOTE:

? Cases referred

HON'BLE SRI JUSTICE K.SURENDER
CRIMINAL APPEAL No.649 OF 2010

JUDGMENT:

1. The appellant is convicted for the offence under Section 366 of IPC and sentenced to undergo rigorous imprisonment for a period of five years vide judgment in S.C.No.556 of 2007 dated 29.04.2010 passed by the VI Additional Senior Civil Judge, Fast Track Court, at Medchal, Ranga Reddy District. Aggrieved by the same, present appeal is filed.

2. It is the case of the prosecution that P.W.3 who is the victim girl, was working as tailor in Comfort Garments Factory at Gundalpochampally area. The appellant was also working as tailor in the very same factory. Since both were working in the same factory, they had acquaintance. On 12.08.2006, P.W.3 left her house and while she was at the bus stop, the appellant came in an auto and offered to give lift in the auto. She boarded the auto and auto was going in a different direction. When questioned, the appellant expressed his love for her and stated that he wanted to marry her. Though she requested the driver to stop, driver did not hear and increased

the speed. When P.W.3 shouted for help while sitting in the auto, the appellant beat her on her head. She was taken to a house and confined in the room and threatened with stick and knife stating that if she shouts, the appellant would kill her father and brother. Due to fear, she did not make any attempt to escape from the room and nor shouted for help.

3. On the next day, the appellant received phone call from PW3's brother. The appellant answered the call stating that both were getting married and he would take P.W.3 to Mumbai. However, P.W.3 was not allowed to talk to her brother on phone. Thereafter, they shifted to the house of the appellant's elder brother in an auto. During that time, the elder brother was not there in the house and on the next day, the brother came and advised the appellant to go to the police station. However, having come to know that the police visited the factory, the appellant took P.W.3 to the room where they stayed initially on 12.08.2006. At the instance of the appellant, she wrote a letter saying that she had gone willfully with the appellant and thereafter, the appellant let her free.

However, the appellant locked the door outside and went away as he came to know that the police had traced the location. After the appellant left, the police went to the room and rescued P.W.3.

4. The police, during the course of examination, found that the appellant had committed an offence punishable under Section 366-A of IPC. However, the learned Senior Civil Judge found that no case under Section 366A of IPC was made out. However, the appellant was found guilty for the offence under Section 366 of IPC.

5. Learned counsel appearing for the appellant would submit that there is any amount of inconsistency in the case of the prosecution. The evidence regarding locating P.W.3 is doubtful since different versions are given by the police and also P.Ws.5 and 6, who are panch witnesses. Learned Judge erred in relying on the contradictory evidence of the witnesses P.Ws.1 and 4. There was a delay in sending the complaint to the Magistrate and though the alleged complaint was lodged on 14.08.2006, the FIR was sent to the Magistrate on

16.08.2006 with a delay of two days. Non examination of the police officer, who registered the crime and though the alleged incident had taken place on 12.08.2006, the complaint was allegedly lodged on 14.08.2006 and subsequently sent to Magistrate on 16.08.2006. It was elicited during the course of cross-examination through the evidence of P.W.8, the Investigating Officer, who admitted that PW.3/victim was moving freely with the accused, which rules out the possibility of abduction or kidnap.

6. On the other hand, learned Public Prosecutor would submit that the victim/P.W.3 has narrated that she was forcibly taken in an auto and confined in a room. It is evident from the evidence that force was used and P.W.3 was detained. It amounts to an offence under Section 366 of IPC and accordingly, the learned Judge has rightly convicted the appellant.

7. Having gone through the record, the appellant and P.W.3 were acquainted with each other while working in the very same factory. They were going together to the factory and

coming back. On 12.08.2006, it is alleged that the appellant took P.W.3 in an auto stating that they would go to the factory. However, she was taken to a room. There she stayed for a day and again both P.W.3 and the appellant went to the house of the brother of the appellant. On the advise of the brother of the appellant that P.W.3 should be handed over to the appellant, they again came back to the room where they stayed initially. P.W.3 is alleged to have been rescued on 18.08.2006 i.e., after a period of six days. In the meantime, both the appellant and P.W.3 stayed in two different places and moved around the city according to the admission of PW3. It cannot be said that when PW3 and appellant were traveling in the city from one place to the other and also meeting people, it cannot be said that P.W.3 was forcibly confined.

8. From the facts of the present case, the probability of P.W.3 accompanying the appellant voluntarily is more. If P.W.3 was injured as stated by her during her examination, she would have received injuries on the head and also on the other parts of the body. However, she was never examined by

the Doctor on 18.08.2006, the day she was taken into custody by the police or subsequently. The incidents narrated during the course of investigation when viewed collectively, it appears that P.W.3 had voluntarily accompanied the appellant. In the said circumstances, the benefit of doubt is extended to the appellant.

9. In the result, the judgment of the trial Court in S.C.No.556 of 2007 dated 29.04.2010 passed by the VI Additional Senior Civil Judge, Fast Track Court, at Medchal, Ranga Reddy District is set aside and the appellant is acquitted. Since the appellant is on bail, his bail bonds shall stand cancelled.

10. Accordingly, the Criminal Appeal is allowed. Consequently, miscellaneous applications, if any, shall stand closed.

K.SURENDER, J

Date: 22.06.2023

Note: LR copy to be marked.

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HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL APPEAL No.649 of 2010

Date: 22.06.2022.

kvs