

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.707 of 2016

JUDGMENT:

1. This appeal is filed by the State against the judgment dated 29.8.2007 passed in S.C.No.1 of 2004 by the Principal Assistant Sessions Judge, Chittoor.

2. The case of the prosecution is as follows:

A1 is related to the family of the victim closely. The victim is a resident of Puthalapattu whereas A1 is a resident of Narthakalva alias Pathakalva village. The victim-P.W.4 was studying I year Intermediate in P.C.R. College in the year 2003. On 14.7.2003 at about 8.30 a.m., she left her house to go to the college. There, A1 met her while she was coming out of the college and stated that he will drop her at the house on his bike. Further, A1 informed her that her grandmother was serious and that her parents had gone there. On such false representation, A1 induced her to follow him on his bike. He took her with him to Chandragiri, parked his motor cycle there and from there, with the assistance of the other accused A1 took her in a TATA sumo to different places including Pandikuppam, Tirupati, Bangalore, Nellore and Tiruttani. Finally, she escaped from the confinement of the accused and appeared before the police. Thus, the victim was kidnapped by A1 with the assistance of A2 to A5 to compel her to marry A1 and in that process, the victim was taken to different places and was confined. On the complaint lodged by P.W.1-father of the victim, a case was registered and investigated into. After completion of the investigation, charge sheet was filed.

3. The learned V Additional Judicial Magistrate of First Class, Chittoor, took the case on file and made over the same to the Court of Sessions, Chittoor. The Court of Sessions numbered it as S.C.No.1 of 2004 and made over the same to the learned Principal Assistant

Sessions Judge, Chittoor for disposal.

4. The trial Court framed a charge for the offence under Section 366-A IPC against the accused, read over and explained to them, for which they pleaded not guilty and claimed to be tried.

5. During the course of trial, P.Ws. 1 to 10 were examined and Exs.P1 to P17 were marked on behalf of the prosecution. No oral or documentary evidence was adduced on behalf of the accused.

6. On appreciation of oral and documentary evidence, the trial Court found A1 guilty for the offence under Section 366-A IPC, convicted and sentenced him to undergo rigorous imprisonment for a period of four years and to pay a fine of Rs.5,000/- in default to suffer simple imprisonment for three months, while acquitting the other accused for the said offence. Aggrieved by the acquittal of the other accused, the State filed the present appeal.

7. When this matter has been taken up, the learned Counsel for the respondents submitted that in the present appeal, A1, who was convicted by the trial Court was shown as the 1st respondent-A1 and A1 preferred an appeal viz., CrI.A.No.153 of 2007 before the Additional Sessions Judge, Chittoor against his conviction and in the said appeal, A1 was acquitted. But the State filed this appeal as if the 1st respondent was acquitted by the trial Court.

8. Perused the records and heard the arguments.

9. Even though the name of A1 was shown as the 1st respondent in the present appeal, it was shown under the cause title that A1 is not necessary party in this case. Therefore, this Court proceeded to deal with this appeal insofar as the acquittal of A2 to A5-Respondents 2 to 5 are concerned.

10. As can be seen from the record, it is evident that after evaluating the entire evidence, the trial Court came to the conclusion that the offence under Section 366-A was not made out against respondents Nos.2 to 5. Section 366-A IPC speaks about the taking of a minor girl with an intention to seduce her for illicit intercourse with another person. In the present case, even according to the case of the prosecution, A1 is the uncle of the victim and there was a love affair between A1 and also the victim girl. Further, there is no cogent evidence to establish the participation of A2 to A5 in the alleged kidnap. Thus, the prosecution has failed to prove its case against respondents 2 to 5-A2 to A5.

11. Considering the facts and circumstances of the case and the judgment under appeal, this Court is not inclined to interfere with the judgment of acquittal recorded against respondents Nos.2 to 5.

12. Accordingly, the Criminal Appeal is dismissed. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

RAJA ELANGO, J

1st August, 2016

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