



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3368]

FRIDAY, THE FIRST DAY OF MAY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI

CRIMINAL APPEAL NO: 818/2009

Between:

1. THE STATE OF A.P., HIGH COURT OF A.P., HYDERABAD.

...APPELLANT

AND

1. YADLA RATNARAJU, S/o. Sudarsanarao, SC-Mala, Near Mutyalamma Temple, 17th Ward, Old Town Tanuku, West Godavari District.

...RESPONDENT

Appeal under Section 372/374(2)/378(4) of Cr.P.C praying that the High Court may be pleased to present this Memorandum of Criminal Appeal Against the order in SC.No.79 of 2005 on the file of the Hon'ble Assistant Sessions Judge, Tanuku, and prays that this Hon'ble Court may be pleased to set aside the order of acquittal and convict the accused / (respondents) for the offence with which he was charged.

IA NO: 1 OF 2008(CRLAMP 1709 OF 2008)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to condone the delay of "549 days" days in presenting the appeal against the order of acquittal of the accused / respondents in SC.no.79 of 2005 on the file of the Hon'ble Assistant Sessions Judge, Tanuku, dated 19th day of October of 2006.

Counsel for the Apellant:

1.PUBLIC PROSECUTOR (AP)

Counsel for the Respodent:

1.G RONALD RAJU

The Court made the following:

THE HONOURABLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI**CRIMINAL APPEAL No.818 of 2009****ORAL JUDGMENT:**

The present criminal appeal is preferred by the appellant–State challenging the order of acquittal dated 19.10.2006 passed in S.C. No. 79 of 2005 on the file of the learned Assistant Sessions Judge, Tanuku. The learned Sessions Judge recorded an order of acquittal for the offences under Sections 366-A, 376, 419, 354, 448, 506(1), and 182 IPC framed against the accused, and acquitted him under Section 235(1) CrPC.

2. The case of the prosecution is that PW1 is the daughter of PW2. She was studying Intermediate in the year 2003. The accused is a relative of PW2. On 03.09.2003, as usual, PW1 went to the college located at Tanuku. The accused met her at about 9:00 a.m. and represented to PW1 that her maternal aunt wanted to see her. Believing his representation, PW1 accompanied the accused on his bicycle. The accused took PW1 to the house of PW6, A. Kanakalakshmi, who is the maternal aunt of the accused. PW1 and the accused stayed there for ten days, during which period the accused committed sexual assault on PW1 and threatened to kill her if she disclosed the same to anyone.

3. Thereafter, the accused shifted PW1 to the house of PW4, M. Padmavathi, at Masjidpeta, Tadepalligudem, where he kept her for another ten days and again committed sexual assault on her, while issuing similar threats. Subsequently, the accused took PW1 to the house of her maternal grandmother located at Darsiparru of Pentapadu Mandal. The accused informed her maternal grandmother that he had found PW1 on the way and therefore, brought her there. The maternal grandmother requested the accused to hand over PW1 to her parents.

4. Accordingly, they came to the railway station at Tanuku. The accused telephoned one Burra Nageswara Rao (LW4), introduced himself as Vinod, and asked LW4 to collect PW1 at the Tanuku railway station. He also threatened LW4 that he would kill PW1 if LW4 brought anyone along with him. Further, he warned PW1 not to disclose the incident to anyone, stating that otherwise he would write a letter to her would-be husband informing him of the events, thereby damaging her reputation in society. LW4 came to the railway station and took PW1 to her home on 23.09.2003.

5. The parents of PW1, i.e., PW2 (father), questioned PW1 about what had happened to her during those days. PW1 informed them that the accused had handed her over to one Vinod of Rajahmundry. However, no report was lodged with the police immediately. On 08.10.2003, the accused came to the house of

PW1 and PW2 and demanded that PW1 accompany him. PW1 raised cries, and her parents attempted to catch the accused, but he managed to escape.

6. Thereafter, PW1 and PW2 went to the police station at about 8:00 p.m. on 09.10.2003 and submitted Ex.P1 report. The Assistant Sub-Inspector of Police (PW13) registered the same as Ex.P9 FIR and forwarded the original to the jurisdictional Magistrate, along with copies to the concerned officials. PW14, the Inspector of Police, on receipt of the FIR, took up the investigation. He examined PW1 and PW2, recorded their statements, and sent PW1 to the hospital for medical examination. He also took steps to determine the age of PW1.

7. PW14 visited the scene of offence in the presence of mediators, namely PW5 and another, and prepared Ex.P10 rough sketch. He examined other witnesses and recorded their statements. The accused was arrested and produced before the learned Magistrate for remand to judicial custody. Subsequently, PW1 appeared at the police station on 27.10.2003 and gave another statement, pursuant to which steps were taken to record her statement under Section 164 CrPC. PW7, the jurisdictional Magistrate, recorded the statement of PW1 under Section 164 CrPC, which is marked as Ex.P6.

8. After completion of the investigation and upon receipt of medical opinions, the Investigating Officer filed a charge sheet before the jurisdictional Magistrate. The case was taken on file as P.R.C. No. 8 of 2004 on the file of the learned II

Additional Judicial First Class Magistrate, Tanuku, and was committed to the Court of Sessions, West Godavari, under Section 209 CrPC. The case was thereafter registered as S.C. No. 79 of 2005 and made over to the learned Assistant Sessions Judge, Tanuku, for trial in accordance with law.

9. The learned Sessions Judge framed charges against the accused for the offences under Sections 366-A, 376, 419, 354, 448, 506(1), and 182 IPC. The accused denied the charges and claimed to be tried.

10. In order to substantiate the charges, the prosecution examined PWs.1 to 14 and marked Exs.P1 to P14. The accused was examined under Section 313 CrPC with regard to the incriminating circumstances appearing against him in the prosecution evidence. The accused denied the same as false and incorrect.

11. On behalf of the defence, DW1 was examined. Upon considering the entire evidence on record, the learned Sessions Judge found the accused not guilty of the charges and accordingly acquitted him. Aggrieved by the same, the present appeal has been preferred by the appellant–State.

12. Heard Sri C.P. Somayaji, learned counsel for the appellant–State, and Ms. G. Amulya Spencer, learned counsel for the respondent–accused, appearing online.

13. The point for consideration is:

“Whether the judgment of the learned Sessions Judge is not sustainable in law?”

14. PW1 is the victim. She deposed before the learned Sessions Judge that on 03.09.2003, at about 9:00 a.m., she went to her college as usual. The accused, who is a relative of PW1, met her there and informed her that PW6 wanted to see her. Believing his representation, PW1 accompanied the accused on his bicycle to the house of PW6. PW1 and the accused stayed in the house of PW6 for ten days, during which period the accused committed the offence on PW1 as alleged by the prosecution and threatened her with dire consequences if she disclosed the same to anyone. Thereafter, the accused shifted PW1 to the house of PW4, where they stayed for another ten days. During that period also, the accused committed the offence on PW1 and again threatened her with dire consequences if she disclosed it to any person.

15. Subsequently, on 23.09.2003, the accused and PW1 came to the railway station at Tanuku. The accused made a phone call to one Burra Nageswara Rao (LW4), introducing himself as Vinod, and asked him to come to the railway station and take custody of PW1. Accordingly, LW4 came to the railway station, took PW1, and handed her over to PW2, the father of PW1. PW1 did not disclose the offences committed by the accused to PW2 or her mother due to the threats extended by the accused.

16. On 09.10.2003, the accused came to the house of PW2 and misbehaved with PW1, upon which PW1 raised cries. PW2 attempted to catch hold of the accused, but in vain, as he escaped. Thereafter, PW1 and PW2 went to the police station and submitted Ex.P1 report.

17. During trial, PW1 was confronted with her earlier statement given before the police, wherein she had omitted to state the above version during investigation by PW14. PW1 deposed that she had stated the above version for the first time before the learned Sessions Judge and that she had given a different version before the police as well as in Ex.P1 report.

18. PW14 deposed that PW1 submitted Ex.P1 report on 09.10.2003 and, on the same day, he recorded the statements of PW1 and PW2. He admitted that PW1 had omitted to state that the accused had committed sexual assault on her and that he had threatened her not to disclose the incident to anyone. PW14 further deposed that, based on Ex.P1 and the statements recorded on 09.10.2003, they searched for a person named Vinod, but could not obtain any information.

19. Subsequently, PW1, when questioned regarding the existence of Vinod, made another statement at the police station on 28.10.2003, and thereafter her statement was recorded under Ex.P6 by the learned Magistrate (PW7). Based on

the said statement, the name of Vinod was deleted from the case, and a charge sheet was laid against the accused alone.

20. Therefore, the facts and circumstances of the case, including the FIR and the omissions proved by the defence, would indicate that PW1 had initially stated that the accused introduced her to a person named Vinod from Rajahmundry and promised to provide nursing training to her. Accordingly, she accompanied them to Rajahmundry, where she was taken to the house of Vinod and the accused left the place. Thereafter, Vinod allegedly committed sexual assault on PW1 for ten days and later shifted her to the house of PW4 at Bhimavaram, where they stayed for another ten days. There also, Vinod allegedly committed sexual assault on her. It is further stated that the accused informed Vinod over phone that the parents of PW1 were raising a dispute regarding her absence and requested him to send PW1 immediately. Accordingly, Vinod came to Tanuku railway station and informed Burra Nageswara Rao (LW4), maternal uncle of PW1, to take PW1. Consequently, LW4 came to the railway station.

21. The prosecution did not choose to examine LW4 to establish that he received a phone call from a person named Vinod on 23.09.2003 and that, pursuant thereto, he went to Tanuku railway station, where he found PW1 and thereafter brought her to the house of PW2.

22. PW1 stated in Ex.P1 report that she did not disclose the incident to PW2 until 09.10.2003 on account of threats extended by the accused. However, the omissions proved by the defence would show that she did not state before the Investigating Officer (PW14) that the accused had threatened her with dire consequences if she disclosed the offence to anyone.

23. PW2 made a contrary statement that when he enquired with PW1 about her absence from 03.09.2003 to 23.09.2003, PW1 informed him about the offence committed by the accused. However, he did not lodge any report with the police, as he was concerned about the family reputation in society.

24. On 09.10.2003, the accused allegedly came to the house of PW2 and made an attempt to assault PW1. PW1 raised cries, and PW2 and others gathered there and tried to catch hold of the accused, but he escaped. PW14 admitted that PW2 did not state to him that he had informed elders about the incident at that time.

25. Thus, PW1 deposed that she did not inform PW2 about the incident until 09.10.2003, whereas PW2 deposed that PW1 had informed him about the incident soon after returning home on 23.09.2003, but no report was lodged with the police in order to protect the family reputation. The report was lodged on 09.10.2003 only after the accused allegedly came again to the house of PW2 and attempted to assault PW1.

26. PW14, surprisingly, deposed that the accused had earlier submitted a report to the police prior to 09.10.2003 against PW2 and Burra Nageswara Rao (LW4), alleging that they had assaulted him. Subsequently, Ex.P1 was lodged by PW1.

27. These facts probabilise the defence version that Ex.P1 was lodged as a counterblast to the report earlier given by the accused against PW2 and LW4. It is further evident that Ex.P1 was originally presented against Vinod and not against the accused alleging sexual assault on PW1. Surprisingly, after about twenty days of Ex.P1, the police recorded another statement of PW1 stating that Vinod was a fictitious person and that the real culprit was the accused.

28. It is not clear what prompted PW1 and PW2 to suppress or screen the accused in Ex.P1 with respect to the alleged acts committed on PW1. These facts and circumstances create a doubt regarding the version of the prosecution. Two versions emerge from the record—one implicating Vinod and another implicating the accused.

29. The prosecution did not choose to examine the grandmother of PW1. In Ex.P1, PW1 stated that the accused took her to the house of her grandmother from Bhimavaram, where the grandmother of PW1 requested the accused to hand over PW1 to her parents. Thereafter, the accused went to Tanuku railway station and telephoned Burra Nageswara Rao (LW4), introducing himself as

Vinod. As already mentioned above, the prosecution also did not examine Burra Nageswara Rao (LW4).

30. It is further pertinent to note that PW4, a relative of the accused residing at Bhimavaram, and PW6, another relative of the accused, did not support the case of the prosecution.

31. The Investigating Officer, when cross-examined with regard to medical evidence, stated that the medical evidence did not establish any sexual assault on PW1. It is also pertinent to note that the prosecution did not examine the doctor who allegedly conducted the medical examination on PW1 in respect of the alleged sexual assault. Probably, as no evidence of sexual assault was found on PW1, the prosecution chose not to examine the doctor.

32. Therefore, all the above facts and circumstances create a reasonable doubt regarding the prosecution version as to whether the incident occurred in the manner narrated by PW1 before the trial Court or in the manner stated by PW1 in Ex.P1 and her earlier statements recorded by the police. In these circumstances, the testimonies of PW1 and PW2 cannot be safely relied upon, as their statements before the Court below have been impeached by their previous statements made before the Investigating Officer during the course of investigation. Hence, the credibility of these witnesses becomes doubtful, leading to the conclusion that the prosecution has failed to prove the charges beyond

reasonable doubt. For the same reasons, the learned Sessions Judge found the accused not guilty and acquitted him.

33. It is a settled principle of law that when the view taken by the trial Court is a possible and reasonable view based on the evidence available on record, the appellate Court shall not interfere with such finding in an appeal against acquittal.

34. In the case on hand, the view taken by the learned trial Court that the prosecution failed to prove the charges beyond reasonable doubt is a plausible view, as discussed above. Therefore, this Court does not find any valid grounds to interfere with the judgment of the learned trial Court.

35. In the light of the foregoing discussion, the appeal fails and is liable to be dismissed.

36. In the result, the Criminal Appeal is dismissed.

37. This judgment be certified to the trial Court, as per Section 405 of Cr.P.C.

As a sequel thereto, interlocutory applications, if any, pending in this Criminal Appeal shall stand closed.

JUSTICE B.V.L.N. CHAKRAVARTHI

1st May, 2026
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THE HONOURABLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI

CRIMINAL APPEAL No: 818of 2009

1st May, 2026

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