

D. Ramalinga Reddy @ D. Babu Vs. State

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Court : Andhra Pradesh

Decided On : Feb-26-1999

Reported in : 1999(2)ALD572; 1999(2)ALD(Cri)436; 1999(1)ALT(Cri)287; 1999CriLJ2918

Judge : Bilal Nazki, J.

Acts : Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 - Rule 7; [Indian Penal Code \(IPC\), 1860](#) - Sections 341; Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Sections 3(1) and 23

Appeal No. : Crl. A No. 755 of 1996

Appellant : D. Ramalinga Reddy @ D. Babu

Respondent : State

Advocate for Def. : Public Prosecutore

Advocate for Pet/Ap. : Mr. C. Padmanabha Reddy for Cherukur, Mastan, Adv.

Judgement :

1. Heard the learned Counsel for the appellant as well as the Public Prosecutor.
2. The appellant has been convicted for the offences under Section 341 of IPC and also under Section 3(1)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The facts which lead to the prosecution of the

appellant are that, one Smt. Mekala Rajamma who belongs to Yanadi caste reported that on 9-11-1993 at about 10.00 a.m. she collected cow dung in a basket and went towards the outskirts of the village to dump it on the manure heap, the heap was to the south of her house in her land. After dumping, she went to attend the calls of nature in the land of Nallappa Reddy Bhaskar Reddy. While returning the accused met her, after chit chatting for a while he caught hold of her hand, she admonished him, the accused gagged her mouth and said, 'Hey Yanadi prostitute come, I want to fulfill my ardent desire'. After saying these words he dragged her towards him. She also stated that, the accused dragged her to the land of Bhaskar Reddy in which crop had been raised. She struggled and in that process her blouse was torn. She also stated that, at that time one Venakataramana came to that side and on seeing him the accused ran away. While running away from the scene of offence the accused in fact asked her to forget about the incident. She further stated that when the accused dragged her, she shouted for help and one Ramana and Jayanna also came to the spot, she narrated the story to them. Then she went to her house, narrated the story to her husband. They went to the elders of the village, elders did not take any action and subsequently she filed a report after 24 hours.

3. More or less this story has been supported by the witnesses who were examined during the trial. PW2 who according to the victim (PW1) was the first to arrive at the scene became hostile. PW1 was categorical in her statement that on seeing PW2 the accused ran away from the scene of occurrence. Other PWs reached the spot after the occurrence. If one takes the statement of PW1, then it appears that all the witnesses reached the scene of occurrence after the accused had left the scene of occurrence.

4. PW3 in this statement has stated that, on seeing PW2 the accused ran away from the spot. He also stated that when he asked PW1 she narrated him the incident. However, he also stated that he saw the accused holding PW1 by her hand and gagging her mouth. He also stated that he saw dragging of PW1 to the land of Nallappa Reddy Bhaskar Reddy by the accused. Incidentally this witness is cousin of PW1.

5. The next witness is PW4 who is husband of the victim. The husband obviously was not an eye-witness and he was only informed of the incident by his wife at his residence. The delay of 24 hours in giving report has been justified on the ground that it was rainy and a river had to be crossed to reach the Police Station which was 30 miles away from the scene of occurrence.

6. PW5 is the Investigating Officer who appeared and stated that he investigated the matter.

7. The learned senior Counsel appearing for the appellant submits that, since the prosecution was initiated under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the investigation should have been conducted by an officer not below the rank of Deputy Superintendent of Police. He submits that any investigation which has to be conducted into the allegations made under the said Act has to be made in accordance with the Rules known as Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995. These rules have been framed by the Central Government in exercise of rule making power conferred under Section 23 of the Act. The Central Government has been authorised under Section 23(1) of the Act to make rules for carrying out the purposes of the Act. Since the purpose and objective sought to be attained by the Act is to minimise the offences against Scheduled Castes and Scheduled Tribes therefore it prescribes stringent sentences also. Therefore, in order to ensure any misuse of the Act, Rule 7 of the Rules lays down not only that the investigation should be done by an Officer not below the rank of Deputy Superintendent of Police but also lays down that such Officer should be specifically appointed by the State Government for investigating the offences under the Act. It further lays down that, while appointing such officers the Government should take into consideration his past experience, sense of ability and justice to perceive the implications of the case. On bare perusal of Rule 7 of the Rules it becomes abundantly clear that even all Deputy Superintendents of Police cannot investigate offences under SC, ST (Prevention of Atrocities) Act. Only those officers who are not below the rank of Dy. Superintendent of Police and are specifically appointed by the State Government, or the Director General of Police, or Superintendent of Police are competent for the purpose of investigating

the cases under the Act. This order of appointment can either be specific or general.

8. There is no dispute that the present case was investigated by a Sub-Inspector of Police and not by an officer envisaged under Rule 7. Since the investigation itself has been conducted by an Officer who was not authorised in law to conduct the investigation the whole trial is vitiated. The same view has been expressed in a judgment of Madras High Court reported in N. Ramu v. Supdt. of Police Villupuram, 1998 Madras Law Journal Reports (CrL.) 132. Therefore, conviction of the appellant for the offence under Section 3(1)(xi) of SCs & STs (Prevention of Atrocities) Act has to be set aside and is accordingly set aside and the accused-appellant is acquitted of the charges under the Act.

9. However, this would not automatically acquit the appellant of the charges under Section 341 of the IPC. There is evidence of PW1, PW2 and PW3 that there was wrongful restraint as discussed above on the PW1. Therefore, I uphold the conviction under Section 341 IPC. However, in the interest of justice the sentence is reduced to fine of Rs.500/-. The fine shall be paid within two weeks from the date of receipt of a copy of this judgment, in default of payment of fine, the appellant shall undergo sentence of 15 days imprisonment.

10. The appeal is accordingly allowed in part.