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RCC 34/2014
State Vs. Rajkumar & Anr
Exh. 38.

Received on 24/02/2014.
Registered on 24/02/2014.
Decided on 17/04/2015.
Duration 01 Y 01 Ms 23 Ds

IN THE COURT OF SHRI. S.S.UBALE, JUDICIAL MAGISTRATE F.C.
HINGOLI.

R.C.C.No. 34/2014

Exh.No 38.

State of Maharashtra
Through Police Station,
Goregaon, Tq. & Dist.Hingoli.

... Prosecution.

Versus

- 1- Rajkumar S/o Baban Nayak,
Age: 35 years, occ: Agri,
- 2- Meera W/o Rajkumar Nayak,
Age: 28 years, occ: Household,
Both R/o Sawana, Tq. Sengaon,
Dist. Hingoli.

... Accused.

Charge :- Offences punishable under secs. 354A(1)(iv), 354A(1)(i), 354D(1)(i), 294, 504 & 506 (2) r.w.sec. 34 of Indian Penal Code, 1860.

Appearance :-

Mr. S.D.Choutmal, Ld. A.P.P for the State.
Mr. P.K.Puri, Ld. Adv. for accused persons.

JUDGEMENT

(Delivered on dt.17/04/2015)





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1- Accused are facing trial for the offences punishable under secs. 354A(1)(iv), 354A(1) (i), 354D(1)(i), 294, 504 & 506 (2) r.w.sec. 34 of Indian Penal Code, 1860 (hereinafter referred to as 'I.P.C.' in short).

2- The prosecution case, as has been unfurled is summarized as below-

In the year 2012, the informant was discharging her duties as Health Worker in Primary Health Center (P.H.C.), situated at village Sawana, Tq. Sengaon, Dist. Hingoli. She along with her husband and mother in law was residing in the Quarter of said P.H.C. Since 1½ months prior to dated 28/8/2013, accused No.1 Rajkumar used to make sexually coloured remarks to the informant whenever she had occasion to visit several villages under the jurisdiction of said P.H.C. However, accused No.1 used to utter obscene words to her and thereby used to cause annoyance to her. On dated 8/8/2013, the informant along with another Health Worker Mrs. Radha Lakhe had been to village Goregaon. At that time, accused No.1 went there and asked her to sit on his motorcycle.

3- It is further alleged by the prosecution that on dated 28/8/2013, the informant's son Yash was suffering from fever and therefore, she along with him had been to village Kanergaon by an





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auto as she had to go to Hingoli for medical treatment of her son Yash. At about 11:45 a.m. the informant along with her son was boarded in a jeep proceeding from Kanergaon to Hingoli and however, accused No.1 was also boarded in the said jeep and sat on her backside seat. Accused No.1 then moved his hand on the back of the informant. He then inserted his hand through her arms and pressed her chest. At that time, the informant raised noise and thereafter, accused No.1 removed his hand and then abused and threatened to the life of informant. Accused No.1 then alighted from said jeep and ran away. It is further case of the prosecution that accused No.2 Meera (wife of accused No.1) then made contact with the informant on a mobile phone and abused her and threatened her that if she lodged the complaint to the police station, she would not allow her to continue her job and that she would kill her. According to the prosecution, said incident was then narrated by the informant to her husband.

4- On the aforesaid incident, the informant lodged her first information report dated 28/08/2013 as against accused persons. Accordingly, offences punishable under secs. 354A, 354D, 294, 504 & 506(2) r.w.sec. 34 of I.P.C. were booked as against the accused persons vide Cr. No. 57/2013 with Goregaon Police Station.

5- During the course of investigation, I.O. nabbed accused





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No.1 who was then enlarged on bail. He then visited the spot of occurrence and prepared spot panchanama in presence of two panch witnesses. He then interrogated the witnesses having acquaintance with the facts and circumstances of the case at hand and recorded their statements in view of sec. 161 of Cr.P.C. I.O. then arrested accused No.2 who was then enlarged on bail. As the investigation revealed complicity of the accused persons with the commission of the crime, I.O. charge sheeted them.

6- Upon going through the report U/s 173(2) of Cr.P.C., documents submitted therewith and upon hearing accused persons, my learned predecessor has framed charge Exh. 29 as against accused persons. Contents of charge were read over and explained to accused persons in their vernacular form to which they pleaded not guilty and claimed to be tried.

7- In the light of charge Exh. 29, evidence adduced by prosecution and having regard to the submissions made across the bar, following points arise for determination and I have recorded my findings thereon for the reasons stated below-

POINTS

FINDINGS.

1- Whether the prosecution has proved that since 1½ months prior to lodging first information report, at village Surajkheda,





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Waichal Pimpri, Brahmanwada, Goregaon and Sawana Tanda, accused No1. was making sexually coloured remarks to the informant and thereby committed an offence punishable under sec. 354A(1)(iv) of I.P.C.?

... In the negative.

- 2- Whether the prosecution has proved that during the aforesaid period and at aforesaid places, accused No.1 uttered obscene words to the informant and caused her annoyance and thereby committed an offence punishable under sec. 294 of I.P.C?

... In the negative

- 3- Whether the prosecution has proved that on dated 28/8/2013 at about 11:45 a.m. in a jeep proceeding from Kanergaon to Hingoli, accused No.1 moved his hand on the back of the informant and thereby pressed her chest and thereby committed an offence punishable under sec. 354A(1)(i) of I.P.C?

... In the negative

- 4- Whether the prosecution has proved that on dated 28/8/2013, accused No.1 followed the informant and contacted her to foster personal interaction repeatedly despite clear indication of disinterest by her and thereby committed an offence punishable under sec. 354D(1)(i) of I.P.C?

... In the negative

- 5- Whether the prosecution has proved that on dated 28/8/2013, in aforesaid jeep, accused No.1 intentionally insulted the





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informant and gave her provocation intending or knowing it to be likely that such provocation will cause her to break public peace or to commit an other offence and thereby committed an offence punishable under sec. 504 of I.P.C?

... In the negative

6- Whether prosecution has proved that on the aforesaid date, time and place, accused No.1 threatened to the life of the informant and thereby committed an offence punishable under sec. 506(2) of I.P.C?

... In the negative

7- Whether the prosecution has proved that after the aforesaid incident dated 28/8/2013, accused No.2 in furtherance of her common intention with accused No.1, made mobile contact with the informant and intentionally insulted her and gave her provocation intending or knowing it to be likely that such provocation will cause her to break public peace or to commit any other offence and thereby committed an offence punishable under sec. 504 r.w. sec.34 of I.P.C?

... In the negative

8- Whether the prosecution has proved that after the aforesaid incident dated 28/8/2013, accused No.2 in furtherance of her common intention with accused No.1 made mobile phone to the informant and threatened her that she will kill her and would not allow her to continue her job and thereby they have committed an offence punishable under sec. 506(2) r.w. sec. 34 of I.P.C?





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9- What order?

... In the negative

... As per final order.

REASONS

8- I have heard Ld. A.P.P Shri Choutmal for the State and the Ld. Adv. Shri P.K.Puri appearing on behalf of accused persons at considerable length and have gone through the evidence available on record.

9- In order to prove it's case, prosecution has examined the informant as PW-1 at Exh. 36 and informant's husband Sanjay Mohite as PW-2 at Exh.37. As PW-1 and 2 resiled from their previous statements, evidence of the prosecution came to be closed vide order passed below Exh.1. As there is no incriminating evidence surfaced as against accused persons their examinations under sec. 313 of Cr.P.C. have been dispensed with vide order passed below Exh.1.

AS TO POINT NOS. 1 TO 8.

10- Point Nos. 1 to 8 are being interlinked with each other, I have taken them for common discussion. It is pertinent to note that the informant turned hostile and she, in her cross examination taken by Ld. A.P.P. in view of section 154 of Indian Evidence Act, 1872, denied having made portion mark 'A' appearing in his first





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information report to the effect that '*she was molested, annoyed by uttering obscene words, abused and threatened by accused No.1 and that she was also abused and threatened by accused No.2*'. Likewise, PW-2 Sanjay turned hostile and he, in his cross examination taken by Ld. A.P.P. denied having made portion mark 'A' appearing in his statement to the effect that '*his wife / informant was molested, annoyed by uttering obscene words, abused and threatened by accused No.1 and that she was also abused and threatened by accused No.2*'. Besides this, PW-1 and 2 have admitted in their cross examination taken by Ld. A.P.P. that their dispute with accused persons has been amicably settled outside the court.

11- Looking from any angle, evidence adduced by the prosecution can not be said to be sufficient to fasten on the accused persons the guilt in connection with the offences punishable under secs. 354A(1)(iv), 354A(1)(i), 354D(1)(i), 294, 504 & 506 (2) r.w. sec. 34 of I.P.C. As PW-1 and 2 have not supported to the case of prosecution, prosecution has failed to prove as against accused persons the said offences. Hence, I have answered point Nos. 1 to 8 in the negative.

AS TO POINT NO. 9:

12- My aforesaid findings left me with no option but to arrive at an inevitable conclusion that accused persons deserve





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to be acquitted of the offences punishable secs. 354A(1)(iv), 354A(1)(i), 354D(1)(i), 294, 504 & 506 (2) r.w. sec. 34 of I.P.C.
Hence, I proceed to pass the following order:-

ORDER

- 1- Accused Nos. 1- Rajkumar S/o Baban Nayak, Age: 35 years, occ: Agri, and 2- Meera W/o Rajkumar Nayak, Age: 28 years, occ: Household, Both R/o Sawana, Tq. & Dist. Hingoli. are hereby acquitted under sec. 248(1) of Cr.P.C. of the offences punishable under secs. 354A(1)(iv), 354A(1)(i), 354D(1)(i), 294, 504 & 506 (2) r.w. sec. 34 of I.P.C.
- 2- Bail bonds of accused persons stand cancelled.
(Dictated and pronounced in the open court.)

Date :-17/04/2015

(S.S.Ubale)
Judicial Magistrate F.C.,
Hingoli.

