
(2019) 12 RAJ CK 0042
In the Rajasthan High Court
Case No : Criminal Appeal No. 1463 Of 2019

Alladita @ Chane Khan @ Shan Khan	APPELLANT
Vs	
State Of Rajasthan	RESPONDENT

Date of Decision : 10-12-2019

Acts Referred:

Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 — Section 3(2)(V)(2)(VA), 14A(2)
Indian Penal Code, 1860 — Section 363, 366, 376(2)(N)
Code Of Criminal Procedure, 1973 — Section 161

Citation : (2019) 12 RAJ CK 0042

Hon'ble Judges : Vijay Bishnoi, J

Bench : Single Bench

Advocate : D.S. Thind, Mukesh Trivedi, Ravindra Khichi

Final Decision : Allowed

Judgement

This criminal appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter to be referred as 'the SC/ST Act') has been filed on behalf of the appellant being aggrieved with the order dated 14.10.2019 passed by the Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Cases), Sri Ganganagar (hereinafter to be referred as 'trial court') in Criminal Misc. Bail

Application No.293/2019, whereby the trial court has dismissed the bail application filed on behalf of the appellant.

The appellant has been arrested in FIR No.151/2019 of Police Station Anoopgarh, District Sri Ganganagar for the offences punishable under Sections 363, 366, 376(2)(N) and 323 IPC and Section 3(2)(V)(2)(VA) of SC/ST Act.

Learned counsel for the appellant has submitted that the prosecutrix is major lady and eloped with the appellant as per her own free will. It is submitted that the allegations against the appellant of kidnapping and sexual assault are

absolutely false. It is further submitted that even the police, in the charge-sheet, have concluded that the prosecutrix went with the petitioner as per her own free will and lived with him for quite some time. It is further submitted that as a matter of fact the prosecutrix eloped with the appellant as per her own free will and lived with him for so many days, however, thereafter the mother of the prosecutrix, came there to bring her back, where some altercation took place between the prosecutrix, her mother and the appellant and later on, under the pressure of her mother, the prosecutrix lodged false FIR against the appellant.

Learned Public Prosecutor has opposed the prayer made on behalf of the appellant in this criminal appeal.

Heard learned counsel for the appellant as well as learned Public Prosecutor and also perused the material on record.

It is noticed that the prosecutrix in her statements recorded under Section 161 Cr.P.C. has specifically stated that earlier also she went with the appellant and lived with him for two-three days and the matter compromised and the prosecutrix and her mother came back. It is also noticed that though the prosecutrix in her statements and complaint has alleged that the appellant brutally assaulted her but in the injury report of the prosecutrix, Doctor opined that injuries are abrasions which are simple in nature.

Having regard to the totality of the facts and circumstances of the case and having taken into consideration the statements of the prosecutrix recorded under Section 161 Cr.P.C., wherein she has specifically stated that earlier also she went with the appellant and lived with him for two-three days and the matter compromised and the prosecutrix and her mother came back, without expressing any opinion on the merits of the case, I deem it just and proper to allow the appeal filed by the accused appellant under Section 14-A(2) of SC/ST Act.

Accordingly, this criminal appeal filed under Section 14-A(2) of SC/ST Act is allowed and the order dated 14.10.2019 passed by the Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Cases), Sri Ganganagar in Criminal Misc. Bail Application No.293/2019 is set aside. It is directed that appellant - Alladita @ Chane Khan @ Shan Khan S/o Rehmat Ali shall be released on bail in connection with FIR No.151/2019 of Police Station Anoopgarh, District Sri Ganganagar provided he executes a personal bond in a sum of Rs.50,000/- with two sound and solvent sureties of Rs.25,000/- each to the satisfaction of learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.