

(2013) 08 MP CK 0235
In the Madhya Pradesh High Court
Case No : Criminal A. No. 2055 of 2012

Kunti Kanojiya

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 05-08-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 372
Penal Code, 1860 (IPC) — Section 376(1)

Citation : (2013) 08 MP CK 0235

Hon'ble Judges : B.D. Rathi, J;Ajit Singh, J

Bench : Division Bench

Advocate : Shahid Khan, for the Appellant; Sudeep Deb, Government Advocate for the Respondent No. 1, for the Respondent

Final Decision : Dismissed

Judgement

B.D. Rathi, J.—Heard on admission. This appeal has been preferred u/s 372 of the Code of Criminal Procedure (hereinafter referred to as "the Code") being aggrieved with the judgment dated 28/8/12 passed by Sessions Judge, Jabalpur in Sessions Trial No. 343/2011, whereby respondent No. 2 Pushpendra Singh has been acquitted of the offence u/s 376(1) of the Indian Penal Code (for short "IPC").

2. Prosecution case, in brief, is that upon a false promise to marry, respondent No. 2, while residing as tenant in her house, persistently subjected the prosecutrix to sexual intercourse for a period of 10 years and impregnated her.

3. Learned counsel for the appellant, while making reference to the evidence on record, submitted that the trial Court has erred in appreciating the evidence and the judgment of acquittal deserves to be interfered with.

4. Having regard to the arguments advanced by the counsel for the parties, we have gone through the record of the trial Court.

5. Trial Court, in paragraph 6 of the impugned judgment, held that it was not

disputed that during the relevant period, prosecutrix was above 18 years of age. In paragraph 9 of the judgment, trial Court, found that the prosecutrix was in physical relationship with respondent No. 1 more than 7-8 years and she had also stayed with him at Birsinghpur Pali, where he had gone to open a shop. After appreciation of the entire evidence on record, trial Court, in paragraph 11 of the impugned judgment, held that it was apparent from the conduct of the prosecutrix that she was a consenting party and being a Post Graduate was fully aware of the consequences that would arise from maintaining such a live in relationship.

6. On perusal of the evidence and material available on record, we fully agree with the findings recorded by the trial Court based on the proper appreciation of evidence on record.

7. It is well settled that the judgment of acquittal should not be disturbed unless the conclusions drawn on the basis of evidence brought on record are found to be grossly unreasonable or manifestly perverse or palpably unsustainable.

8. Taking into consideration the reasons assigned on the face of evidence on record establishing the aforesaid facts and circumstances, the view taken by the learned trial Court was apparently a possible view. As such, no interference is called for with the judgment of acquittal in question. The appeal, therefore, stands dismissed.