

(2013) 08 MP CK 0127

In the Madhya Pradesh High Court

Case No : Criminal Revision No. 583 of 2013

Mahindra Pratap Singh @ Munna @ Baba

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 27-08-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 363, 366
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(2)(v)

Citation : (2013) 08 MP CK 0127

Hon'ble Judges : N.K. Gupta, J

Bench : Single Bench

Advocate : L.S. Singh, with Mr. J.L. Soni, for the Appellant; R.N. Yadav, Panel Lawyer, for the Respondent

Judgement

N.K. Gupta, J.—The applicant has preferred the present revision against the order dated 29.1.2013 passed by the learned Special Judge under SC/ST (Prevention of Atrocities) Act, Rewa in Special case No. 72/2012, whereby the charges of offence punishable under sections 363, 366 of IPC and section 3(2)(v) of SC/ST (Prevention of Atrocities) Act (hereinafter it will be referred to as "Special Act") were framed against the applicant. The prosecution's case, in short, is that, the prosecutrix, who is an unmarried girl of 16 years of age, disappeared from her parents' house. Ramesh Choudhary had lodged an FIR that the prosecutrix was missing since 13.6.2012. Thereafter, the prosecutrix could not be recovered. After recording the evidence of 2-3 persons, the investigation officer has filed a charge-sheet against the applicant, which was duly committed to the Special Court.

2. I have heard the learned counsel for the parties at length.

3. After considering the submissions made by the learned counsel for the parties and looking to the facts and circumstances of the case, I have to repeat the yardstick relating to the framing of charges. As directed by Hon'ble the Apex

Court, if the evidence collected by the prosecution is considered as it is and without rebuttal of that evidence, if the accused can be convicted for any offence then, charge of that offence shall be framed against the accused. In the instant case, there is no evidence that the applicant was seen with the prosecutrix or the prosecutrix is recovered from the applicant. At present, the prosecutrix could not be recovered and her version is not available with the prosecution that who kidnapped her. The statements of various witnesses recorded, simply indicate that the applicant is arrested on the basis of the suspicion. However, the suspicion is also remote. A suspicion was made by the witnesses against one Baba but, there is no evidence collected by the police that the applicant Mahindra Pratap Singh @ Munna is also known as "Baba". Under such circumstances, if the entire evidence is considered then, no conviction can be directed for the offence punishable under sections 363 or 366 of IPC. Consequently, no conviction can be directed u/s 3(2)(v) of the Special Act. Under such circumstances, the learned Special Judge has committed an error of law in framing the charges, without any evidence. Hence, the impugned order passed by the learned Special Judge appears to be perverse and it cannot be maintained.

4. On the basis of the aforesaid discussion, the revision filed by the applicant is hereby allowed. The impugned order dated 29.1.2013 is hereby set aside. The applicant is discharged from the charge of offence punishable under sections 363, 366 of IPC and section 3(2)(v) of SC/ST (Prevention of Atrocities) Act with the direction that after recovery of the prosecutrix if any evidence is found against the applicant then, the police would be entitled to submit a fresh charge-sheet against the applicant alongwith the other culprits thereafter. A copy of the order be sent to the trial Court for information and compliance.