
(2013) 08 MP CK 0173
In the Madhya Pradesh High Court
Case No : Criminal A. No. 2006 of 2012

Sita Devi

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 13-08-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 315, 372, 378(4)
Penal Code, 1860 (IPC) — Section 376(1), 450

Citation : (2013) 08 MP CK 0173

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

Bench : Division Bench

Advocate : K.D. Singh, for the Appellant; C.K. Mishra, Government Advocate for the respondent no. 1-State, 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 15.6.2012 passed by Additional Session Judge designated as Special Judge, Sidhi in Sessions Trial No. 69/2008, whereby respondent no. 2 has been acquitted of the offences punishable under Sections 376(1) and 450 of the Indian Penal Code ("IPC" for short).

2. Prosecution case, in brief, is that on 19.6.2005, at about 10 pm, when the prosecutrix was making food and her children were sleeping, respondent no. 2 Shivpati Pandey trespassed into her house and after putting off the Chimney, committed rape upon her by pressing her mouth. On hearing her shrieks, her children woke up and cried due to which, Villagers of the vicinity gathered at the spot and locked the door from outside and called her father. Thereafter, the villagers and her father called the police, who apprehended the respondent from inside her house and brought him to Police Station Semariya, where report was lodged at the instance of the prosecutrix, but due to pressure of nephew of the respondent, who is a police personnel, the report was not properly recorded and

the copy thereof was also not provided to her.

3. Learned counsel for the appellant and learned Government Advocate, while making reference to the evidence on record, submitted that the learned trial Court has not properly appreciated the evidence on record and the impugned judgment deserves to be interfered with.

4. Having regard to the arguments advanced by the parties, we have gone through the impugned judgment.

5. The impugned judgment was passed in a private complaint case filed by the appellant. Therefore, in view of the provision of Section 378(4) of the Code, this appeal u/s 372 of the Code is not maintainable against the impugned judgment of acquittal.

6. That apart, trial Court after considering the evidence and material on record, found that First Information Report was not lodged by the prosecutrix, and other reports said to be sent to Superintendent of Police, Inspector General of Police, Member of legislative Assembly etc. were neither produced nor proved by the prosecution. Trial Court also observed that private complaint was filed by the prosecutrix after an unexplained delay of 51/2 months. Besides this, trial Court also found the evidence of prosecutrix untrustworthy, in view of the statement given by the respondent as DW2 u/s 315 of the Code. V.N. Yogi (DW1), Assistant Sub-Inspector, has deposed that on 20/5/05, prosecutrix had lodged a report against Manju Gupta, Rakesh Gupta and Dinesh Gupta, who had objected when the respondent was sitting in her house and had quarreled with him. In the aforesaid premises, the trial Court found that the prosecution had failed to prove its case beyond a reasonable doubt.

7. We agree with the findings recorded by the trial Court.

8. 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.

9. 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 switch the order of acquittal in question. The appeal, being not maintainable, as well as, the impugned judgment being well merited, stands dismissed.