
(2013) 08 MP CK 0292
In the Madhya Pradesh High Court
Case No : Cr.A. No. 1892 of 2013

Smt. Rekha Rani	Vs	APPELLANT
The State of Madhya Pradesh		RESPONDENT

Date of Decision : 02-08-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 372
Limitation Act, 1963 — Section 5
Penal Code, 1860 (IPC) — Section 323, 376, 450

Citation : (2013) 08 MP CK 0292

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

Bench : Division Bench

Advocate : Jafar Khan, for the Appellant; C.K. Mishra, Government Advocate for the Respondent No. 1, for the Respondent

Final Decision : Dismissed

Judgement

B.D. Rathi, J.—Heard on I.A. No. 1779/13, which is an application u/s 5 of the Limitation Act, for condonation of delay. As per Office note, the appeal is barred by 64 days.

2. Considering the reasons assigned therein, the I.A. is allowed and the delay in filing the appeal is, hereby condoned.

3. Heard on admission.

4. 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 23/3/13 passed by I Additional Sessions Judge, Khurai, District Sagar, in Sessions Trial No. 16/13, whereby respondent no. 2 has been acquitted of the offences punishable under Sections 450, 376 and 323 of the Indian Penal Code ("IPC" for short).

5. Prosecution case, in brief, is that on 13.11.12, at about 11.30 a.m., when the prosecutrix was whitewashing her house and her husband and children were not

present, respondent no. 2 entered into her house, caught her from behind and after throwing her on the ground, subjected her to rape.

6. Learned counsel for the appellant, 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.

7. Having regard to the arguments advanced by the parties, we have gone through the impugned judgment and evidence on record.

8. In paragraph 16 of the impugned judgment, trial Court has rightly found the statement of prosecutrix in para 11 of her evidence that it took around 10 to 15 minutes for respondent no. 2 to remove her clothes and during this period, she was screaming but none from the vicinity came for her help, to be unnatural as her house was in a busy locality and also adjacent to that of her sister-in-law Gendabai, separated only by a single wall. Moreover, her evidence with regard to sustaining injuries, also did not draw support from medical evidence. Trial Court found material contradictions in her Police Statement (Ex. D/1) and deposition in her cross-examination, with regard to intimation given by her to Gendarani, and, Gendarani, who was a material witness, has not been examined by the prosecution. Further, her husband Gourishankar (PW2) also turned hostile. Besides this, existence of previous enmity between the parties due to a dispute pertaining to a Government land between their houses, has also been reflected in the evidence of prosecutrix, her husband and daughter. Considering all this, the trial Court held that the prosecution failed to prove its case beyond a reasonable doubt.

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

10. 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.

11. 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 order of acquittal in question. The appeal, being devoid of merit and substance, stands dismissed.