

(2013) 06 SHI CK 0098
In the High Court Of Himachal Pradesh
Case No : Criminal Appeal No. 500 of 2005

State of Himachal Pradesh

APPELLANT

Vs

Sh. Nand Lal

RESPONDENT

Date of Decision : 17-06-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313, 378
Penal Code, 1860 (IPC) — Section 354

Citation : (2013) 06 SHI CK 0098

Hon'ble Judges : Sanjay Karol, J

Bench : Single Bench

Advocate : R.S. Verma, A.A.G, for the Appellant; Lalit K. Sharma, for the Respondent

Final Decision : Dismissed

Judgement

Sanjay Karol, J.—Assailing the judgment dated 15.9.2005, passed by learned Additional Sessions judge (Presiding Officer Fast Track Court), Solan, District Solan (H.P.) in Case No. 5FT/10 of 2005, titled as Sh. Nand Lal Vs. State of H.P., reversing the judgment of conviction passed by Judicial Magistrate 1st Class, Kandaghat, District Solan, Himachal Pradesh, State has filed the present appeal under the provisions of Section 378 of the Code of Criminal Procedure, 1973. It is the case of the prosecution that complainant filed complaint (Ex. PW1/A) with S.H.O., Police Station, Kandaghat alleging that the accused had tried to outrage her modesty. On the basis of the said complaint, F.I.R. No. 71 dated 30.7.2003 (Ex. PW5/A) was registered at Police Station, Kandaghat. Investigation was conducted by A.S.I. Ram Chand. With the completion of investigation, Challan was presented in the Court for trial.

2. The accused was charged for having committed offences punishable under the provisions of Sections 354 and 506-I of the Indian Penal Code, to which he did not plead guilty and claimed trial.

3. In order to establish its case, in all, prosecution examined as many as seven

witnesses. Statement of the accused u/s 313 of the Code of Criminal Procedure was also recorded and in his defence he examined one witness.

4. Appreciating the testimony of the prosecution witnesses, trial Court convicted the accused in relation to the charged offences but however the lower Appellate Court has reversed such findings of conviction and sentence.

5. Having heard learned counsel for the parties as also perused the record, I am of the considered view that no case for interference is made out in the present appeal. The lower Appellate Court has considered the fact that the accused is a close relative of the complainant and there is prior animosity and several prior litigations pending inter se the parties. In this background, the testimonies of the prosecution witnesses need to be examined with circumspection.

6. Significantly in Court, complainant (PW-1) has made several improvements which do not find mention in her initial complaint (Ex. PW1/A). There is no reference of any threats meted out by the accused to the complainant. The version with regard to the exact incident which took place, as narrated in Court is full of exaggerations and embellishments. Unlike her statement in Court, there is no statement of her clothes being torn and the accused having caught her from behind. There is also no reference of the accused having caught hold of her breast. In the complaint it is recorded that the moment accused saw Ramesh Kumar (PW-2) and Medh Ram (PW-3), he ran away from the spot, which is not so stated by her in the Court. Her statement cannot be said to be totally inspiring in confidence. It is also noticed that there is delay in registration of the F.I.R. Police was telephonically informed by the complainant but however no action was taken by the police. It appears that the complaint was filed only to settle certain personal scores. The lower Appellate Court has given the benefit of doubt to the appellant and I see no reason to differ with the findings so returned. The accused has had the advantage of having been acquitted by the lower appellate Court. Keeping in view the ratio of law laid down by the Apex Court in *Md. Ankoos and Others Vs. The Public Prosecutor, High Court of A.P.*, it cannot be said that the trial Court has not correctly appreciated the evidence on record or that acquittal of the accused has resulted into travesty of justice.

With the aforesaid observations, present appeal, being devoid of merit, is dismissed, so also the pending application(s), if any. Bail bonds furnished by the accused are discharged. Records of the Courts below be immediately sent back.