

(2017) 01 RAJ CK 0073
In the Rajasthan High Court
Case No : 304 of 2016

State of Rajasthan

APPELLANT

Vs

Girdhari Lal @ Gulla Ram

RESPONDENT

Date of Decision : 31-01-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 378\(iii\)\(i\)](#) - Appeal in case of acquittal
[Indian Penal Code, 1860](#), [Section 376](#),
[Section 511](#), [Section 1767](#)

Citation : (2017) 01 RAJ CK 0073

Hon'ble Judges : Sandeep Mehta

Bench : SINGLE BENCH

Advocate : K.K. Rawal

Judgement

1. By way of this application preferred under Section 378(iii) (i) of the Cr.P.C ., the State of Rajasthan craves leave to file an appeal against the judgment dated 23.04.2016 passed by the learned Sessions Judge, Pali in Sessions Case No.1/2014 acquitting the respondent accused from the charges under Sections 376 / 511 and 354A IPC and Section 7 / 8 of the Protection of Children from Sexual Offences Act. It may be noted here that by the impugned judgment, the learned Sessions Judge convicted the respondent accused of the charge under Section 354 IPC and sentenced him to one year simple imprisonment and a fine of Rs.1,000/- and so also for the offence under Section 3(1)(xi) of the SC/ ST Act and sentenced him to six months imprisonment and fine of Rs.1,000/-.

2. I have heard and considered the arguments advanced by the learned Public Prosecutor and have gone through the impugned judgment as well as the record.
3. The star witness examined by the prosecution to bring home the charges was the victim Mst. "P (PW-7). The trial court recorded her evidence after being satisfied that she understood the consequences of her allegations. In her evidence, the victim alleged that the accused caught hold of her hand and took her to his field. There, the accused opened her clothes as well as his pant. Thereupon, she raised a hue and cry. On hearing her cries, Mangu Singh shouted and the accused, tied his pant and ran away. From this statement, it is evident that the accused did not proceed to make any attempt to subject the victim to forcible sexual intercourse. The act of the accused did not proceed beyond preparation at best. Thus, the trial court was perfectly justified in discarding the prosecution story regarding the alleged offence of attempt to commit rape as well as the offences under Section 354-A IPC and Section 7/8 of the POCSO Act. The impugned judgment ex-facie does not suffer from any illegality, irregularity or perversity so as to grant leave to the State of Rajasthan to file an appeal there against.
4. Thus, the application for leave to appeal being devoid of any merit is hereby rejected.
5. Record be returned to the trial court.