
(2013) 07 MP CK 0116

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 9626 of 2013

The State of Madhya Pradesh

APPELLANT

Vs

Guddu @ Bhagwandas

RESPONDENT

Date of Decision : 26-07-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 378(3)
Penal Code, 1860 (IPC) — Section 376(2)(g), 450, 506
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(2)(v)

Citation : (2013) 07 MP CK 0116

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

Bench : Division Bench

Advocate : Vijay Pandey, Deputy A.G, for the Appellant;

Final Decision : Dismissed

Judgement

B.D. Rathi, J.—Heard on admission. This is an application for grant of leave to appeal u/s 378(3) of the Code of Criminal Procedure ("Code" for short). By the impugned judgment, respondent has been acquitted of the offence under Sections 450, 376(2)(g) and 506 Part II of the Indian Penal Code (for short "the IPC") and Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "the Act"). The impugned judgment dated 31/5/2013 was passed by Special Judge (under the Act) at Sehore in Special Case No. 13/2013.

2. As per the prosecution story, on 25/4/12, while prosecutrix, a widow belonging to scheduled tribe, was inside her tin-shade hut located in the field of Umesh Chouhan, respondent Guddu Kirar along with co-accused Radheshyam Kirar knocked her door. As she opened the door, both of them pushed and flumped her on the ground and while Radheshyam gagged her with his hand, Guddu committed sexual intercourse with her, and thereafter, Radheshyam also raped her. On the next day morning, she narrated the incident to Umesh

Chouhan and Nasir Khan. Crime No. 5/12 was registered at Police Station AJK, Sehore. After completion of investigation, charge-sheet was filed.

3. Learned Deputy Advocate General, while making reference to the evidence on record, submitted that the trial Court has erred in appreciating the evidence and the judgment of acquittal deserves to be interfered with.

4. Having regard to the arguments advanced by the learned Deputy Advocate General, we have gone through the impugned judgment.

5. After appreciation of evidence and material on record, trial Court held that offence of rape had not been committed and that it was a false case. Field owner Umesh Chouhan and respondent Guddu alias Bhagwandas, were having inimical relations with each other for the last 5 to 6 years. In paragraph 16 of the judgment, it was found by the trial Court that Umesh Chouhan (PW9) had lodged a report (Ex. D/1) at Police Station Shahganj on information given by prosecutrix in the morning and because the facts regarding rape were narrated by the prosecutrix, therefore, in report (Ex. D/1), it was not mentioned that the rape was committed by the respondent.

6. It was also found by the trial Court that on instigation of other persons, one more report (Ex. P/6) was lodged at Police Station AJK and at that time the prosecutrix had gone to the Police Station along with Parvat Singh, Nepal Singh and Umesh Singh. She, along with Umesh Singh, Parvat Singh and Nepal Singh met several officers in Bhopal to get the offence registered.

7. On aforesaid premises, the learned trial Court held in paragraph 28 of the judgment that possibility of false implication could not be ruled out.

8. We agree with the finding of the trial Court.

9. 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.

10 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 application, therefore, stands dismissed in limine.