

Aarti @ Sonu Vs. Deepak

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Court : Madhya Pradesh

Decided On : Sep-30-2013

Appellant : Aarti @ Sonu

Respondent : Deepak

Judgement :

Cr.A.No.1457/2013 30.9.13 Per B.D.Rathi,J Shri K.S.Rajput, Advocate for the appellant.

Heard on admission.

This appeal has been preferred under Section 372 of the Code of Criminal Procedure (hereinafter referred to as the Code) being aggrieved with the judgment dated 20.4.2013 passed by Special Judge (under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short the Act)).Khandwa, in Special Criminal Case No.70/2010, whereby respondent Deepak has been acquitted of the offences punishable under Sections 366 and 376 of the Indian Penal Code (IPC for short) and Section 3(2)(v) of the Act.

Prosecution case, in brief, is that on 22/11/09 upon a false promise to marry, respondent kidnapped the prosecutrix, a member of scheduled caste, and subjected her to sexual assault for a period of 15-20 days in a hut situated near Pemadgarh brick kiln.

Upon investigation into missing person report 40/09 registered by her father Omshankar at Police Outpost Padamnagar and after statement of witnesses, Crime No.42/10 was registered and after completion of investigation, charge-sheet was filed.

Learned counsel for the appellant submitted that the trial Court had erred in appreciating the evidence on record and the judgment of acquittal deserved to be interfered with.

Having regard to the arguments advanced by learned counsel for the appellant, impugned judgment and record of the trial Court were perused.

After taking into consideration the evidence of Dr.

Smt.

Anita (PW1).Dr.

Sanjeev (PW2).Smt.

Shivani (PW3).R.C.Koli (PW4).Kishore Kumar (PW5).Prosecutrix (PW6).her father Omshankar (PW7).Bahadur Singh (PW8).Dinesh (PW9).Nandlal (PW10).Ganpat (PW11).Punam Chand (PW12).Virendra Singh (PW13) and other material available on record, it was found by the trial Court that prosecutrix was more than 19 years of the age during the relevant period and had extensively travelled with the respondent, at her own accord, and despite availability of sufficient opportunity, had not raised any objection, nor disclosed the matter to anyone.

Trial Court also found that later on when respondent ran away from the spot leaving her alone, then his friend Gajju had come there and offered to send her to her parents, but, she denied.

Thereafter, she married Gajju and had begotten a child from him.

In the aforesaid premises, the trial Court found that the prosecution had failed to prove its case beyond a reasonable doubt.

We agree with the findings recorded by the trial Court.

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.

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 judgment of acquittal in question.

The appeal, being devoid of merit and substance, stands dismissed.

(AJIT SINGH) (B.D.RATHI) JUDGE JUDGE (and)

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