

State of Maharashtra Vs. Prashant Sahebrao Thool

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Court : Mumbai Nagpur

Decided On : Apr-25-2016

Judge : Z.A. Haq

Appeal No. : Criminal Appeal No. 316 of 2003

Appellant : State of Maharashtra

Respondent : Prashant Sahebrao Thool

Judgement :

Oral Judgment:

1. The Advocates representing the respondent-accused have filed Pursis Stamp No.1475/2016 seeking discharge. Accepting the reasons stated in the counsel note, Shri G.G. Modak, Shri R.S. Subhedar and Shri R.D. Dharmadhikari, Advocates are discharged from representing the respondent-accused.
2. Heard Shri N.B. Jawade, Additional Public Prosecutor for the appellant-State of Maharashtra.
3. The State of Maharashtra has filed this appeal challenging the judgment passed by the Sessions Court acquitting the accused of the offences punishable under Sections 376, 417 and 506 of the Indian Penal Code.
4. The case of the prosecution is :

The prosecutrix-Ku. Namrata Prabhakar Rao Sawadh (aged about 18 years at the time of incident) filed complaint with the police station that the accused, being neighbour of the prosecutrix and having taken land owned by father of the prosecutrix for cultivation on "batai", used to visit the house and field of the prosecutrix. That on 28-12-1999 at about 2-00 p.m. when the prosecutrix was working in her field, the accused met her and offered to marry her. The prosecutrix sensed bad intention of the accused and started going towards home, however, the accused held her hand, threatened to kill her and forcibly committed sexual intercourse. The accused continued to exploit her sexually promising to marry her. On 22-02-2000, the accused was committing sexual intercourse with her in the field and Shankar Thool and Nilesh Thool came there, however, the accused told them that he would be marrying the prosecutrix and requested them not to disclose about the incident to anybody. The prosecutrix carried pregnancy of six months, she requested the accused to perform the marriage, however, the accused avoided and then the prosecutrix informed her parents and the report came to be lodged.

On the report, Crime No.180/2000 came to be registered, investigation was undertaken and charge-sheet was filed before the Court of Judicial Magistrate First Class, Wardha and as the offence is triable by the Court of Sessions, the case was committed to the Court of Sessions by the order dated 20-10-2001.

The charge came to be framed and was explained to the accused in Marathi. The accused did not accept the guilt and claimed to be tried.

The Sessions Court conducted the trial and by the impugned judgment concluded that the prosecution has failed to prove that the accused committed sexual intercourse forcibly on the prosecutrix on 28-12-1999, without her consent and against her will, that the prosecution failed to prove that the accused deceived the prosecutrix by giving false assurance of marriage and committed sexual intercourse with her. The learned Additional Sessions Judge concluded that the prosecution failed to prove that the accused committed offence of criminal intimidation by threatening the prosecutrix to kill her. The learned Additional Sessions Judge acquitted the accused. The appellant has filed this appeal

challenging the judgment.

5. With the assistance of the learned Additional Public Prosecutor, I have examined the record.

According to the prosecutrix, the accused continued to exploit the prosecutrix sexually from 28-12-1999 till 22-02-2000, that she became pregnant and gave birth to a male child on 23-09-2001. The prosecution has examined Mrs. Ratnaprabha Dattatraya Gujrathi-Analyst (P.W.5) to prove the paternity of male child borne to prosecutrix. The Analyst has given the opinion that there is possibility that the accused may be biological father of the male child born to the prosecutrix. The Analyst has not given firm opinion that the accused is the father of the male child born to the accused.

6. The prosecution has not been able to establish beyond doubt that the accused committed sexual intercourse with the prosecutrix forcibly, against her will and without her consent. The learned Additional Sessions Judge has doubted the story put forth by the prosecution, recording that it is unnatural that the prosecutrix would not disclose about the incident to her mother, if the accused had committed sexual intercourse with her, forcibly. The conclusions of the learned Additional Sessions Judge cannot be said to be improper.

7. The learned Additional Sessions Judge has examined the evidence of the prosecutrix and the so called eye-witnesses and has dealt with the legal position and recorded that the prosecution has failed to establish that the accused has cheated the prosecutrix by committing sexual intercourse with her giving false assurance to marry her. The learned Additional Public Prosecutor has not been able to point out any illegality or perversity in the conclusions of the learned Sessions Judge.

8. I see no reason to interfere with the impugned judgment. The appeal is dismissed.