

State Vs. Kishori Lal

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SooperKanoon Citation : sooperkanoon.com/769013

Court : Rajasthan

Decided On : May-29-2008

Reported in : RLW2008(4)Raj3114

Judge : Mahesh Chandra Sharma, J.

Appellant : State

Respondent : Kishori Lal

Disposition : Appeal dismissed

Judgement :

Mahesh Chandra Sharma, J.

1. The State of Rajasthan has preferred this appeal against the judgment dated 21.7.1999 passed by learned Judicial Magistrate, Ist Class, Bansur Distt. Alwar (hereinafter to be referred as 'the learned trial court') in Criminal Case No. 109/93 by which he acquitted the accused-respondent for the offence under Section 354 I.P.C.

2. In brief, the facts of the case are as under:

Complainant Tija Devi widow of Puranchand (PW. 1) submitted a written report before the Police Station Bansur Distt. Alwar (Ex. P. 2) on 29.9.1993, in which she has stated that accused respondent was the Patwari in Teshildar Office after

drinking liquor had going to her house and inside her house using unparliamentary language. She had further stated in his report that previously also the accused-responding repeated the same offence and she also previously complained to Teshildar.

3. Upon the said information the police registered an F.I.R. No. 74/83 under Section 354 IPC and started investigation. After investigation the police filed a challan against the accused-respondent before the learned trial Court. The learned trial Court framed the charge mentioned hereinabove against the accused-respondent.

4. The charges were read over and explained to the accused-respondent who pleaded not guilty and claimed trial.

5. During trial the prosecution in support of its case examined as many as 8 witnesses and got exhibited some documents.

6. Thereafter the statements of the accused-respondent under Section 313 Cr.P.C. were recorded.

7. After conclusion of the trial the learned trial Court vide its judgment dated 21.7.1999 acquitted the accused-respondent from the offence charged against him holding interalia that the prosecution has not been able to prove its case beyond all reasonable doubts against the accused-respondent.

8. Aggrieved against the judgment and order of the learned trial Court dated 21.7.1999, the State of Rajasthan has preferred the instant appeal.

9. In this appeal it has been submitted by the learned Public Prosecutor that the learned trial Court has not considered the statements of the prosecution witnesses properly. He has further contended that the learned trial Court has wrongly observed that prosecution has failed to prove the offence against the accused-respondent and thus, the impugned judgment and order dated 21.7.1999 is erroneous one and should be set aside.

He has further contended that previously also the complainant complained to Teshildar but the Teshildar had not considered his complaint and, therefore, learned trial Court had committed a grave error of law in not considering his complaint.

10. On the other hand, the learned Counsel for the accused-respondent has submitted that the impugned judgment and order passed by the learned trial Court is based on the correct appreciation of evidence and after giving cogent reasons, the learned trial Court has acquitted the accused respondent from the charges framed against him and thus, no Interference is required with the Impugned judgment and order of the learned trial Court in this appeal.

11. He has also contended that there is a major contradictions in the statements of the prosecution witnesses. Lastly he has also contended that the accused respondent is facing the trial from last several years which is tantamounts to punishment.

12. I have heard learned Public Prosecutor as well as the learned Counsel for the accused-respondent and also gone through the record of the case.

13. Having gone through the impugned judgment dated 21.7.1999 passed by the learned trial Court, I find that the learned trial Court has given cogent reasons for the finding the case of the prosecution proved against accused respondent.

14. Looking to the evidence just discussed above, it can easily be said that the prosecution has not been able to prove its case beyond all reasonable doubts against the accused respondents for the offence for which they have been charged and the learned trial Court was right in acquitting the accused respondent. I have no reason to dissent from the finding of acquittal recorded by the learned trial Court, as they appear to be reasonable and plausible in the facts and circumstances of the case. The learned trial Court has given cogent reason in acquitting the accused respondent.

15. The Court attention was drawn on the following judgment of the Hon'ble Supreme Court:

Umrao v. State of Haryana and Ors. SC 2006 Vol. 10 Page 136 in which the Lordships of the Supreme Court has observed in para 26 that 'it is now well settled that if two view are possible, the appellate court should not interfere with the judgment of acquittal passed by the court below.'

16. It may be stated that in appeal against acquittal though powers of the High Court to reassess the evidence and to reach its own conclusions are as extensive as in an appeal against an order of conviction, yet as a rule of prudence, it should always give proper weight and consideration to the views of the trial judge as to be credibility of the witnesses; the presumption of Innocence in favour of the accused, right of the accused to the benefit of any doubt and thus, High Court should not ordinarily disturb the order of acquittal. Therefore, this Court does not want to interfere with the impugned judgment and order of acquittal passed by the learned trial court and this appeal is liable to be dismissed.

17. Accordingly, this appeal filed by the State of Rajasthan falls and the same is hereby dismissed, after confirming the judgment and order of acquittal dated 21.7.1999 passed by the learned Judicial Magistrate, 1st Class, Bansur Distt. Alwar. The accused-respondent is on bail and he need not to surrender. His bail bonds stands discharged.