

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CRML LEAVE TO APPEAL No. 31 of 2006

STATE
V/S
VEJENG

Mr. HR SONI, PP, for the appellant / petitioner

Date of Order : 28.4.2006

HON'BLE SHRI N P GUPTA, J.

ORDER

Heard learned Public Prosecutor.

The learned trial court has acquitted the respondent of the offence under Sections 456 and 376 I.P.C. The case of the prosecution is that on the fateful day, the victim who is a married lady having two children was on her parents' house, and claims to be all alone in the house. At that time at about 11-12 in the night the door was knocked whereupon she opened, and the accused entered the house. Then, the story is that she was held by mouth, and was made to fall down, and then accused committed intercourse, and after completing the act when he was going, then she raised a cry whereupon Amarji and Gattu etc. who were sleeping outside came and apprehended the accused. Thereafter a community Panchayat (Bhanjgera) was held but the matter was not sorted out, and therefore the report is being lodged.

The incident is of 19.6.2005, and the F.I.R. is lodged on 22.6.2005.

The learned trial court has born in mind that it is not necessary that there should be some corroborative evidence, and if the evidence of the victim inspires confidence then even on her sole testimony the conviction can be recorded. With this after appreciating the statement of the victim, the learned trial court did not find it safe to rely on her evidence, inasmuch as, he has noticed that the victim is having two children aged 11 years and 8 years respectively, while the age of the husband is of 22 years. It has also been noticed that the elder son was alleged to have been from the loins of the present accused, on which there was a dispute, but then the matter was compromised. It has also been noticed, that even for the present incident, efforts were made to settle out the matter, but since no settlement could be arrived at, the F.I.R. has been lodged at the behest of the villagers. The victim has also admitted to be knowing the accused since before. In this background, the learned trial court has considered the reliability of the story as deposed, and found it to be not reliable.

I have gone through the judgment, and have also closely gone through the statement of the victim recorded as P.W.1, that of P.W.2 Dr. Ravi Upadhyay, and the medical

report Ex. P-4. From the evidence deposed by the victim in her cross-examination, it is clear that there was light in the house at that time, her close relations were sleeping outside the house, and her cousins were sleeping with her. With this the act of the accused is said to have continued for pretty long time around one hour, and at that time she did not prohibit him. Admittedly local Panchayat was held at that time itself as the accused is said to have been apprehended at that time, but then, the F.I.R. is lodged after three days. Not only this she alleges to have narrated the incident to her husband but he did not react. This coupled with the fact that Ex. 4 does not even support any sexual assault to have been committed on her.

In these circumstances, even after reappreciating the material on record, I am at one with the findings of the learned trial court, and do not find any sufficient ground to interfere in the acquittal recorded by the learned trial court. The leave to appeal is, therefore, dismissed.

(N P GUPTA), J.

/Sushil/