

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

ORDER

S.B.CRIMINAL LEAVE TO APPEAL NO.239/2015
State of Rajasthan Vs. Mangi Lal Mina

Date of order : 31.8.2015

HON'BLE MR. JUSTICE SANDEEP MEHTA

Mr.KK Rawal, Public Prosecutor.

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By way of the instant application for leave to appeal, the State of Rajasthan seeks to assail the legality and validity of the judgment dated 20.2.2015 passed by the learned Additional Sessions Judge (Women Atrocities Cases), Udaipur in Sessions Case No.19/2013 (CIS No.15/2014) whereby, the respondent accused Mangi Lal Mina was acquitted of the charges under Sections 376 and 452 IPC.

I have heard the arguments advanced by the learned Public Prosecutor and have gone through the judgment under challenge as well as the record.

Having considered the facts and circumstances of the case and upon a perusal of the judgment under challenge, it is

evident that the prosecutrix P.W.1 Mst.D is a major married lady. The first incident of alleged forcible rape took place with the prosecutrix on 19.8.2012. She did not report the matter to the Police. She further alleged that taking advantage of her husband's absence, on 26.8.2012, the accused again tried to repeat the indecent act. During the course of her testimony, the prosecutrix, admitted that despite the accused having subjected her to rape on 19.8.2012, she did not immediately inform to her husband about the incident. Before the incident was reported, a Panchayat took place in the village, wherein it was decided to impose a fine of Rs.3 lacs on the accused. The accused collected only Rs.90,000/- but the payment was not made on which, the report was filed. She further admitted that if the accused had agreed to the suggestion given by the villagers and paid up the settlement money, she would not have come to depose in the Court. The trial Judge found that the husband of the prosecutrix came to know of the incident on the very third day, despite that, FIR was filed after undue delay. The parties haggled over exchange of money but when the accused did not accept the suggestion of the villagers to

give money to the prosecutrix, a belated report was filed. No medical evidence whatsoever was led by the prosecution to corroborate the allegation of forcible rape.

In this view of the matter, this Court is of the opinion that the learned trial Judge was justified in coming to the finding that the incident, if any took place with the active consent of the prosecutrix.

As an upshot of the above discussion, this Court is of the opinion that the impugned judgment cannot be said to be suffering from any illegality or perversity so as to grant leave to the State of Rajasthan for filing appeal against the same.

Consequently, the application for leave to appeal being devoid of any merit, is hereby dismissed.

(SANDEEP MEHTA), J.