

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHUPUR**

D.B. CRIMINAL LEAVE TO APPEAL No.236/2014
State of Rajasthan V/s. Narayan Ram

Date of Judgment :: 30.01.2016

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS
HON'BLE MR. JUSTICE P.K. LOHRA

Mr. Vishnu Kachhawa, PP for the State.

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The instant criminal leave to appeal is filed by the State of Rajasthan under Section 378(iii) & (i) Cr.P.C. against judgment dated 06.08.2014 passed by Additional Sessions Judge No.4, Bikaner in Sessions Case No.33/2014 whereby the learned trial court has acquitted the accused-respondent for offence under Section 302 IPC.

Learned Public Prosecutor submits that the findings given by the learned trial Court are erroneous because although most of the witnesses have turned hostile, the learned trial Court did not consider the testimony of the investigating officer and acquitted the respondents while giving erroneous findings. Therefore, the judgment impugned deserves to be quashed.

As per facts of the case, the complainant Nenu Ram submitted a written report (Ex.P.1) on 7th of May, 2014 at 9:40 AM at Police Station Bajju in which it is alleged that his daughter, Santosh married with Narayan Ram about 17 years back and yesterday on 6th of May, 2010, an information was received in

between 10:00 PM to 11:00 PM that respondent gave beating to his daughter and forcibly gave pesticides to her and thus she died. It is also stated in the written statement that accused Narayan Ram took some pesticides and he became unconscious. Upon the said written report, an FIR bearing No.101/2014 was registered under Section 302 IPC at Police Station Bajju and thereafter investigation was commenced.

After completion of investigation, police filed challan against the respondent for offence under Section 302 IPC and the court concerned wherefrom the case was committed to the Sessions Court, Bikaner and thereafter the case was transferred to the Court Additional Sessions Judge No.4, Bikaner, where trial took place.

The learned trial Court gave finding that the prosecution in order to prove its case produced number of witnesses and out of which most of the witnesses have turned hostile and even the author of the FIR has also turned hostile and did not support the prosecution case therefore, acquitted the respondent from the offence leveled against him under Section 302 IPC.

We have perused the findings given by the learned trial Court in para 18 of the judgment and considered the fact that all the independent witnesses namely Om Prakash (P.W.3), Kanaram (P.W.4), Om Prakash (P.W.5), Balwantram (P.W.6), and Narayanram (P.W.7) turned hostile and did not support the prosecution case, and therefore we are of the opinion that it is not a fit case to grant leave.

Consequently, leave to appeal is, hereby, dismissed.

(P.K. LOHRA), J.

(GOPAL KRISHAN VYAS), J.