

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Crml Leave To Appeal No. 41 / 2017

State of Rajasthan

----Appellant

Versus

1. Ganesh S/o Mangilal, B/c Brahman
2. Prem Singh S/o Malsingh, B/c Rajput

Both R/o Village Jinrasar, Tehsil Sujangarh, District Churu

----Respondents



For Appellant(s) : Mr. L.R. Upadhyay, P.P., for the State

HON'BLE MR. JUSTICE P.K. LOHRA

Order

31/03/2017

Appellant-State has preferred this Leave to Appeal under Section 378(iii) & (i) Cr.P.C. to assail impugned judgment dated 04.10.2016, passed by Additional Sessions Judge, Sujangarh, District Churu (for short, 'learned trial Court') in Sessions Case No.24/2014. By the impugned judgment, learned trial Court has acquitted accused-respondents for offence punishable under Sections 450, 354 & 376/511 IPC.

The facts, apposite for the purpose of this appeal, are that prosecutrix Ms. 'A', wife of Ranvir Singh Rajput, submitted a written report Ex.P/1 before Police Station, Sujangarh stating therein that she entered into matrimony with Ranvir Singh Rajput five years back and since then she is being harassed by her husband and in-laws. Attributing ill-intention on the part of her

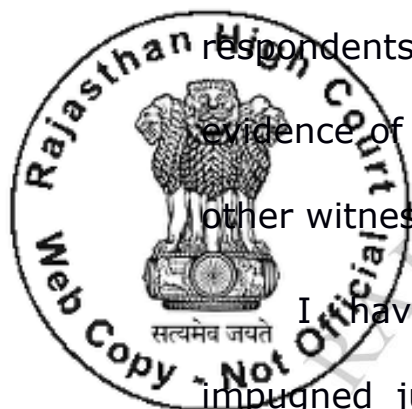
brother-in-law (Jeth) Prem Singh, she has alleged commission of aforesaid offences against him and other accused Ganesh in the night of previous day i.e. on 14.09.2014. As per version of the prosecutrix, at about 10.30 p.m. when she was sleeping, both the accused persons came and tried to molest her and on her raising alarm, some of the neighbours came there and the accused persons fled away.

On the basis of the report, FIR No.295/2014 was registered for offence under Sections 456, 354A, 354B read with Section 34 IPC. After investigation, Police submitted charge-sheet against the accused persons for offences under Sections 457, 354 and 376/511 read with Section 34 IPC.

The matter was, later on, committed to the Court of Sessions for trial. Learned trial Court, after hearing arguments on charge, framed charges against the accused-respondents for offence under Sections 376/511, 450 and 354 IPC. In order to prove charges against the accused-respondents, prosecution examined eight witnesses and exhibited eight documents. Subsequent to that, statements of accused under Section 313 Cr.P.C. were recorded. In defence, accused persons examined two witnesses, namely, D.W. 1 Ranvir Singh and D.W. 2 Mahendra Singh. Upon conclusion of the trial, learned trial Court heard final arguments and by the impugned judgment acquitted the accused persons for the aforesaid offences with a definite finding that prosecution has failed to prove charges beyond all reasonable doubts. Learned trial Court has also noticed serious contradictions and inconsistencies in the statements of prosecutrix and further found



that the other prosecution witnesses have not corroborated her version. That apart, learned trial Court has also taken note of some relevant facts including the compromise which was arrived at between prosecutrix and her in-law's family pursuant to a case registered by her against them for offence under Section 498A IPC. While recording finding favouring the cause of accused-respondents, learned trial Court has also taken note of the evidence of D.W. 1 Ranvir Singh, husband of the prosecutrix, and other witnesses.



I have heard learned Public Prosecutor, perused the impugned judgment and thoroughly scanned the record of the case.

After threadbare examination of the testimony of prosecutrix P.W.1 Ms. 'A' and the statements of other prosecution witnesses, there remains no quarrel that a cumulative reading of entire evidence is insufficient to prove guilt against the accused persons for the aforesaid offences.

While it is true that prosecutrix P.W. 1 has castigated the accused-respondents for the offences but then in view of serious pitfalls in her statements, it is not possible to treat her testimony of sterling worth so as to record finding of guilt against the accused-respondents beyond all reasonable doubts. Moreover, her version is not supported by other prosecution witnesses. A glaring fact, that at the time of occurrence of incident, other family members including husband of the prosecutrix, were present but on her raising alarm, neighbours came at the site but none of the family members responded to her alarm, also creates

serious doubts about the occurrence of alleged incident. There is yet another aspect of the matter that husband of the prosecutrix himself has appeared in the witness box as defence witness and has completely disowned the entire incident.

Therefore, in totality of circumstances, in my considered opinion, learned trial Court has not committed any manifest error

in appreciation of evidence and the conclusions drawn by the learned trial Court cannot be categorized as perverse or inherently improbable. The legal position is no more res-integra that an

appellate Court, while considering a verdict of acquittal, can very well re-appreciate the evidence but then upon reappreciation of

evidence, if the appellate Court comes to the conclusion that two views are possible and the view taken by the learned trial Court is a probable one then it is not desirable to substitute its view for upsetting the verdict of acquittal passed by the learned trial Court.

As observed supra, I have not been able to find any perversity in the appreciation of evidence and conclusions drawn by the learned trial Court, therefore feel dissuaded to grant leave in the matter.

Consequently, leave to appeal craved for is declined and the appeal is accordingly dismissed.

(P.K. LOHRA) J.

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