

HIGH COURT OF TRIPURA
AGARTALA

CRL. L.P. NO.7 OF 2024
IN CRL.A NO.14 OF 2024

The State of Tripura

.....Appellant-Petitioner(s)

Versus

Md. Manfar Ali and ors.

.....Respondent(s)

For the Appellant-Petitioner(s) : Mr. Raju Datta, P.P.

For the Respondent(s) : None.

Date of hearing and delivery of
Judgment & Order : 22/04/2024

Whether fit for reporting : YES/NO.

HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT

J U D G M E N T & O R D E R(ORAL)

T. AMARNATH GOUD(J)

सत्यमेव जयते

This is an application filed under Section 378(3) Cr.P.C for granting Special Leave to appeal against Judgment dated 20.12.2023 passed by the learned Assistant Sessions Judge, North Tripura, Dharmanagar in case No. S.T.(T-2) 14 of 2021, whereby, the respondent-accused persons were acquitted from the charges under Section 448/354/325/324/307/34 of IPC.

2. The brief fact of this case is that vide FIR dated 23.05.2021 made by one Mst. Manti Begam, W/o. Abdul Rahaman of Saraspar, Ward No.4, it was alleged that the FIR named accused-persons assaulted the grandmother-in-law of the complainant, namely, Samuta Bibi by sharp cutting 'dao'. As a result, she sustained grievous injuries on her person and she was shifted to Kadamtala CHC for treatment with the help of male persons of her house. It was further stated that in the absence of male persons in the house of the complainant, the FIR named accused persons came into the dwelling house of complaint and outraged the modesty of the complainant by pulling her saree and hand. Thereafter, the FIR named accused persons forcibly got the complainant from her house by pushing her body and assaulting her with lathi, kick, fist and blows in view to kill her. It is further stated that when the family members of the complainant returned to her house, on seeing them, the accused persons left her house. As a result, the complainant received grievous injuries on her person and was shifted to Kadamtala CHC for treatment by her family

3. Accordingly, the investigation was taken up, and being prima facie satisfied, the investigation officer submitted charge-sheet. Thereafter, the trial commenced and witnesses were examined and documents were exhibited. After hearing

both sides, and examining the evidence, the trial Court vide Judgment dated 20.12.2023 acquitted the accused persons in the following terms:-

"30. Considering the material contradiction and omissions in the statement of the witnesses made before Police and before Court and taking into account, the evidence on record, this Court is of the opinion that the prosecution has been failed to prove its case beyond reasonable doubt under Section 448/354/325/324/307/34 of IPC.

31. In the result the accused persons namely Md. Manfar Ali, Md. Arkum Ali @ Akram Ali @ Akram Uddin, Mst. Khela Begam and Mst. Samia Begam are hereby acquitted of the contents of charge framed against them under Section 448/354/325/324/307 read with Section 34 of IPC and they are directed to be set at liberty forthwith.

The seized dao with wooden handle and the two numbers of bamboo sticks in the Malchallan is to be disposed off by the destruction.

This order of disposal is subject to the period of appeal and/or orders of the Superior court in this respect.

Inform CTI, Dharmanagar Police Court accordingly.

The surety of the accused persons during trial shall stand discharged from the liability of the bail bond furnished by him except the bail bond furnished u/s. 437A of Cr.P.C which shall remain in force for a period of 6 months.

This case is disposed off accordingly on acquittal on contest.

4. Aggrieved thereby, the appellant-petitioner herein has filed this leave petition for granting special leave for preferring the appeal against the impugned Judgment dated 20.12.2023.

5. Heard Mr. Raju Datta, learned P.P., appearing for the appellant-petitioner State. None appears for the respondents.

6. Learned P.P., submits that the learned Trial Court committed wrong in acquitting the respondents-accused persons. P.W.-1 is the eye witness of the incident and she saw the accused persons attack the victim with 'dao'. However, in the cross-examination, she did not state specifically to I.O. that on the relevant date, time, and place of incident, she was present inside the house nor did she state to I.O. the fact of being assaulted. Therefore for small discrepancies, the evidence of the said witness cannot be disregarded. Stating thus learned counsel urged this Court to allow this leave petition.

7. Heard and perused the evidence on record.

8. The respondent-accused persons were charged under Sections 448/354/325/324/307/34 of the Indian Penal Code for allegedly committing house trespass and assaulting a woman with the intent to outrage the modesty of the victim. The learned P.P., during this argument, relied on the testimony of the eyewitness i.e. P.W.-1, who claimed to have witnessed the incident.

9. After carefully considering the evidence and arguments presented before the court, this court finds that there is discrepancies in the evidence of the eyewitness, as stated by the learned P.P. However, it has come to the notice of this Court

that the learned P.P., failed to argue on the point of Sections 448 and 354 of the IPC, which are crucial to the present case. Section 448 of the IPC deals with house trespass, and Section 354 of IPC deals with assault or criminal force on a woman with intent to outrage her modesty. These sections could have a significant bearing on the outcome of this case.

10. In the absence of arguments on these crucial Sections, this Court is not inclined to allow this present leave petition and set aside the impugned Judgment dated 20.12.2023, whereby, the respondent-accused persons were acquitted from the charges leveled under Sections 448/354/325/324/307/34 of the Indian Penal Code.

11. Accordingly, in view of the above observation, the present leave petition is hereby rejected. The connected appeal and well as the miscellaneous petition(s), if any, shall also stand closed.

B. PALIT, J

T. AMARNATH GOUD, J

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