

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL APPEAL No.220 of 2011

JUDGMENT:

This Criminal Appeal is filed by the appellant/State, challenging the judgment, dated 20.10.2009, passed in S.C.No.541 of 2008 by the Assistant Sessions Judge, Wanaparthy, whereby the respondent herein/accused was acquitted of the charges under Sections 376 and 417 of I.P.C.

2. Heard the learned Additional Public Prosecutor representing the appellant/State and perused the record. There is no representation for the respondent/accused.

3. Learned Additional Public Prosecutor representing the appellant/State would contend that the victim was disturbed by the accused. The accused committed sexual acts on several occasions having promised to marry the victim and ultimately, he did not marry her. Further, the accused made the victim to undergo abortion. The trial Court had not appreciated all the facts and circumstances of the case and erroneously, acquitted the accused for the charges framed under Sections 376 and 417 of IPC and ultimately, prayed to set aside the impugned judgment and convict the accused for the charges framed against him under Sections 376 and 417 of IPC.

4. The Court below, *vide* judgment under challenge, acquitted the respondent/accused for the charges under Section 376 and 417 of I.P.C. The prosecution examined P.Ws.1 to 6 but no documents were marked. No defence witnesses were examined on behalf of the accused. P.Ws.2, 3 and 4 are the relatives of the victim. P.Ws.5 and 6 are the other witnesses and they are not the direct witnesses to the alleged offences. P.W.1 is the victim in this case. She has stated in her evidence that the accused had committed several sexual acts on

her. She also stated in her evidence that the accused had promised to marry her and that she underwent abortion in a private hospital.

5. As per the record, the accused and the victim are schoolmates. They have affinity and out of affinity, they have developed sexual relations. As seen from the entire evidence on record, there is nothing to show that the accused obtained the consent of the victim by threat and deceitful means. They have cohabitated for long time. When the marriage of the accused was fixed, the victim lodged a report to the police on 25.05.2007. After investigation, the police filed the charge sheet against the accused. The accused was being tried for the offences punishable under Sections 376 and 417 of IPC. The learned Sessions Judge had elaborately dealt with regard to the evidence on record and held that no offences were made out against the accused. The trial Court had also held that the evidence of P.W.1 do not inspire confidence to believe that the victim was sexually assaulted by the accused without her consent on a promise to marry her. The said finding is based on the evidence on record. No case is made out against the accused for the offences punishable under Sections 376 and 417 of IPC. The trial Court had rightly acquitted the accused for the said offences. There is nothing to take a different view. The appeal is devoid of merit and is liable to be dismissed.

6. Accordingly, the Criminal Appeal is dismissed.

Pending Miscellaneous Petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

Date : 19.12.2018
ssp