

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL APPEAL NO.503 OF 2020

Sona Santosh Katakdhond ...Appellant
Versus
The State of Maharashtra and Anr. ...Respondents

Mr. Sachin H. Deokar, for the Appellant.

Ms. P. P. Shinde, A.P.P for the Respondent No.1– State.

Mr. Bharat K. Manghani, for the Respondent No.2.

***CORAM : REVATI MOHITE DERE &
V. G. BISHT, JJ.***

DATE : 4th JULY 2022

P.C. :

1. Heard learned counsel for the parties.
2. This appeal is preferred by the appellant against the Judgment and Order dated 20th February 2020, passed by the learned Special Judge – 3, Solapur, in Special (S.C.S.T) Case No.27 of 2018, acquitting the respondent No.2 of the offences with which he was charged i.e. for the offences punishable under Sections 376, 420, 504,

506 of the Indian Penal Code and under Sections 3(2)(va) and 3(1)(w) (ii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (for short 'SCST. Act').

3. On the last date, the learned APP was asked to take instructions whether the State intended to file any appeal against the acquittal of the respondent No.2. Today, the learned APP has tendered a letter dated 24th September 2021 of the Superintendent (Legal) stating therein that the State Government has not found any material on record to challenge the judgment and order of acquittal passed by the learned Special Court, Solapur and as such has come to the conclusion that this is not a fit case for filing an appeal in this Court. The said letter is placed on record.

4. Perused the papers including the evidence and judgment passed by the trial Court. The main witness in the said case i.e. PW2, who was at the relevant time aged 27 years. A perusal of the evidence of PW2-prosecutrix shows that she was married earlier and that her

husband had left her, as he was addicted to liquor. She has stated that she was working as a coolie in the Market Yard at Solapur and that the respondent No.2 used to help her. She has further stated that the respondent No.2 would come to her house on the pretext of work and that he established physical relations with her, after promising marriage. It also appears from the evidence that there was some money transaction between the prosecutrix and the respondent No.2. According to the PW2, she later learnt that the respondent No.2's marriage was fixed and when she asked the respondent No.2 about the same, he did not tell the truth. She has stated that she asked the respondent No.2 to return her money, however, he refused. She has also stated that the appellant abused her in the name of her caste and that pursuant to the aforesaid, she lodged a complaint.

5. A perusal of the cross-examination of the said witness shows that the prosecutrix's family i.e. mother, brother etc. were residing in front of her house. It appears that she had not disclosed the alleged incident of rape to any of her family members. There are

several inconsistencies in her cross-examination. Apart from this, the learned Judge in para 13 of the Judgment and Order dated 20th February 2020 has observed that the prosecutrix was in a relationship with respondent No.2 for about 5 to 6 years; that she had not disclose to any of her family members or to the police that she was sexually exploited by the respondent No.2. There are discrepancies in her evidence. The learned Judge has also observed that the investigating officer has specifically admitted in his cross-examination that the prosecutrix's family members were staying in the vicinity i.e. in the same lane, where the prosecutrix was residing. No witness was examined to show that any such abuses i.e. castiest abuses were uttered by the respondent No.2. There are several material omissions, contradictions, seen in the evidence of the prosecutrix, resulting in the learned Judge disbelieving her testimony.

6. We do not find any infirmity or perversity in the impugned Judgment and Order dated 20th February 2020, passed by the learned Special Judge – 3, Solapur, acquitting the respondent No.2

of the charges with which he was charged and as such no interference is warranted in the same.

7. Appeal is dismissed and accordingly disposed of.

V. G. BISHT, J.

REVATI MOHITE DERE, J.