

IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Gaurang Kanth

C.R.A. 702 of 2013

Parbati Das

-Vs-

The State of West Bengal & Ors.

For the Appellant : Mr. Manas Kumar Das
Mr. Aritra Kumar Thokdar

For the respondent : Mr. Robiul Islam
No.2 Mr. Raju Mondal
Mr. Samimul Bari

For the State : Mr. Saswata Gopal Mukherji, Id. P.P.
Mr. Aniket Mitra

Heard on : 31.07.2023

Judgment on : 31.07.2023

Joymalya Bagchi, J. :-

1. Appellant has assailed judgment and order dated 17.05.2013 passed by the learned Additional District & Sessions Judge, Fast Track, 1st Court, Malda in Sessions Case No. 205 of 2012 acquitting the

respondent no.2 herein from the charge under Sections 417/376 of the Indian Penal Code.

2. Gist of the accusation against the respondent no.2-accused is to the effect that he was a practicing doctor. Appellant was employed in his chamber. On the false representation that he was a bachelor and would marry the appellant, the respondent no.2-accused cohabited with her on a number of times. Subsequently, appellant came to know that the respondent no.2-accused is a married man and has a son.
3. Under such circumstances, she lodged written complaint resulting in registration of English Bazar Police Station Case No.614 of 2011 dated 23.09.2011 under Sections 417/376 of the Indian Penal Code. Pursuant to investigation, charge sheet was filed and charges were framed under Sections 417/376 IPC against the respondent no.2-accused. During trial, prosecution examined 16 witnesses including the appellant as PW1.
4. Upon analysis of the evidence on record particularly that of PW1, the trial Judge noted that the appellant herself was a married lady and in this backdrop, allegation of being misled on the ground that the respondent no.2-accused was a bachelor and would marry her is patently absurd.
5. Mr. Manas Kumar Das, learned Advocate for the appellant submits respondent no.2-accused had represented himself as a bachelor and dishonestly cohabited with her.

6. Learned Advocate for the respondent no.2-accused disputes such submission.
7. Learned Advocate for the State also disputes such submission.
8. We have considered the evidence on record in the light of the aforesaid submissions by the parties.
9. PW1 is the appellant and de-facto complainant in the instant case. In chief, she deposed she was working in the chamber of Dr. Ashok Prasad Gupta, the respondent no.2 herein. Dr. Gupta portrayed himself as a bachelor and on the false promise of marriage, cohabited with her. But in cross-examination, she admitted she is already married to one Dipak Das.
10. That apart, PW10 viz. Seema Gupta (wife of Dr. Ashok Prasad Gupta) was tendered on behalf of the prosecution. In cross-examination, she stated she used to regularly visit her husband's chamber with her son. She had met the appellant on a number of times.
11. Evidence of PW10 renders the version of the appellant that she was unaware of the marital status of the respondent no.2-accused herein improbable. In this backdrop, finding of the trial Judge cannot be said to be perverse or contrary to the evidence on record. When the finding of the trial court is a reasonable one and founded on evidence on record, the appellate court would be loath to overturn the said finding and reverse an order of acquittal.

12. For the abovementioned reasons, we do not find any merit in the appeal.
13. The appeal is accordingly, dismissed.
14. Lower court records along with a copy of this judgment be sent down at once to the learned trial Court for necessary action.
15. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.
16. I agree.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

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