

Court No. - 42

सिलेज नं- 20/9

Case :- GOVERNMENT APPEAL No. - 312 of 2014

Appellant :- State Of U.P.
Respondent :- Mukesh Jatav
Counsel for Appellant :- G.A.

Hon'ble Ravindra Singh J.
Hon'ble Mohd. Tabir J.

Heard the learned A.G.A. and perused the lower court record.

This application for granting leave to appeal has been filed against the judgement dated 19.10.2012 passed by the Additional Sessions Judge, Court No. 10 Bareilly in S.T. No. 434 of 2012 whereby the accused respondent has been acquitted for the offence punishable under sections 363, 366 and 376 I.P.C.

Having the learned A.G.A. and perusing the lower court record it reveals that the FIR of this case has been lodged by Prem Pal Verma on 11.8.2011 at 3.30 p.m. in respect of the incident allegedly occurred on 5.8.2011 at about 4.00 p.m. According to the FIR on 5.8.2011 at about 4.00 p.m. prosecutrix had gone in the company of some other children to see the village affairs, till evening she did not return to her parent's house whereas other children had returned, on query made from the children the first informant came to know that she was enticed and taken away by the accused respondent Mukesh Jatav and other family members of Mukesh Jatav were also having the conspiracy in the commission of the alleged offence. The prosecutrix has been examined before the trial court as P.W. 5 was recovered and she was medically examined on 20.10.2011.

According to the medical examination report no injury was seen on her person, she was having 16/14 teeth, her hymen was torn with old scare marks. According to the supplementary medical examination report no definite opinion could be given about rape, her age was about 18-19 years, after completing the investigation, charge sheet was submitted against the accused respondents on which cognizance was taken by the learned magistrate concerned and the case was committed to the court of session where the charge for the commission of the offence punishable under sections 363, 366 and 376 I.P.C. was framed, the same was denied by the accused respondent and claims for the trial. At the stage of the trial seven witnesses have been

2

examined from the side of the prosecution, thereafter, the statement of the accused respondents was recorded under section 313 Cr.P.C. in which he stated that the prosecutrix was not kidnapped by him, she himself was visited his house, the prosecutrix had performed the marriage with him, the marriage was registered at Aanola (Bareilly) and a false FIR was lodged by the parents of the victim, after considering the evidence available on record, the trial court has come to the conclusion that the prosecutrix was major, she was not kidnapped by the accused respondent, she was the consenting party, she live in the company of the accused respondent with her free will and consent. The accused respondent was acquitted. From the perusal of the statement of the prosecutrix recorded under section 164 Cr.P.C. she disclosed her age about 18 years, she stated before the magistrate that she had gone in the company of the accused respondent with her free will and consent, she was educated upto VIIIth class, she has supported the prosecution story in her statement recorded by the trial court as P.W. 5. but she admitted that she moved from one place to another place and remained in the company of the accused respondents, developed physical relationship without any protest and she stated that she married with the person namely Narendra Pal Singh about one year back, she had deposed that she was having the child of three months old, she moved in the company of the accused respondents in Himachal Pradesh for about 2 months which shows that the prosecutrix had gone in the company of the accused respondents with her free will and consent and developed physical relationship, she admitted before the I.O. that she performed court marriage at Aanola on 8.8.2011, she remained in his company as his wife, in such circumstances, the finding of acquittal recorded by the trial court does not require any interference, therefore, leave to appeals refused.

Accordingly this application is dismissed.

Sd/- Ravindra Singh J.
Sd/- Mohd Tahir J.

Order Date :- 14.3.2014

N.A.

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High Court, Allahabad
14/3/2014

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Appellant :- State Of U.P.

Respondent :- Mukesh Jatav

Counsel for Appellant :- G.A.

Hon'ble Ravindra Singh J.

Hon'ble Mohd. Tahir J.

I heard the learned A.G.A. and perused the lower court record.

That since the application for granting leave to appeal has been dismissed, therefore, the appeal is also dismissed.

Let the lower court record be sent to the court concerned forthwith.

Order Date :- 14.3.2014

N.A.

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21/4/14

SAL Ravindra Singh J.
SAL Mohd Tahir J.

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