

SUPREME COURT OF INDIA

State of U.P.

Vs.

Raji Rajit Ram @ Khurpanchi

Crl.A.No.18 of 2006

(B. S. Chauhan and Swatanter Kumar JJ.)

07.06.2011

ORDER

1. This appeal has been preferred against the judgment and order dated 10th March, 2003, passed by the High Court of Allahabad (Lucknow Bench), acquitting the Respondent of the charges under Section 376 Indian Penal Code, for which the Respondent stood convicted by the trial court and he had been awarded Rigorous Imprisonment for seven years. The Respondent has been convicted by the High Court under Section 354 Indian Penal Code and awarded the sentence as already undergone.
2. As per the Prosecution, the prosecutrix who was only 17 years of age at the relevant time had been raped by the Respondent on 30th September, 1992, when she had gone for working in the agricultural fields wherein the Respondent, Ranjit Ram @ Khurpanchi had taken her inside the sugarcane field under the pretext to help him to pick up the bundle of grass.
3. When she did not return home in the evening, the informant, her mother Janak Dulari, PW.3 along with other persons went to search for her and after hearing the noise near the sugarcane field, she entered into the field and found her lying unconscious. The prosecutrix was taken back home by her mother with the help of other persons. Her father was not at home, on the said day.
4. The complainant went to the police station on the next day and filed the FIR under Section 376 Indian Penal Code against the Respondent.

5. After completion of the investigation, the charge sheet was filed against him under Section 376 Indian Penal Code, for which he denied the charges and pleaded not guilty. Thus, he was put to trial.

6. After conclusion of the trial, the court convicted the Respondent for the offence punishable under Section 376 Indian Penal Code and awarded him to undergo rigorous imprisonment for seven years vide judgment and order dated 25th March, 1994.

7. Being aggrieved, Respondent preferred Criminal Appeal No. 124 of 1994, before the Allahabad High Court (Lucknow Bench), which has been allowed to the extent that the Respondent was acquitted for offence under Section 376 Indian Penal Code and convicted under Section 354 Indian Penal Code and sentenced for the period already undergone. Hence, this appeal by the State.

8. Mr. Ameet Singh, learned Counsel appearing for the State of U.P. has submitted that the well reasoned judgment and order of the trial court has been set aside by the High Court without giving any valid reason or considering the finding of fact recorded by the trial court.

9. Mrs. K. Sarada Devi, learned amicus curiae, appearing for the Respondent could not point out any ground on the basis of which the judgment can be defended.

10. Therefore, the judgment and order under appeal cannot be termed as judgment in the eyes of law. The High Court without making any reference to any evidence or finding whatsoever changed the conviction of the Respondent from Section 376 to Section 354 Indian Penal Code. More so, no reason whatsoever has been given for such a conversion. Punishment has been given as already undergone without mentioning as what has been the said period.

11. We are of the considered opinion that such a judgment cannot be sustained in the eyes of law. Therefore, we set aside the judgment and order dated 10.3.2003 passed in Criminal Appeal No. 124 of 1994 and remand it back to the High Court to be heard afresh.

12. As the matter is very old, we request the High Court to decide it expeditiously, after giving opportunity of hearing to the accused. For that purpose, the matter may be placed by the Registry of the High Court before the Hon'ble Chief Justice/Senior Judge, immediately.

13. The appeal is disposed of in the above terms.

14. The appeal is disposed of in terms of the signed order.