

State Of Chhattisgarh Vs Gulab Yadu

Court: Chhattisgarh High Court

Date of Decision: June 27, 2018

Acts Referred: Indian Penal Code, 1860 " Section 376(1), 450, 506

Hon'ble Judges: Prashant Kumar Mishra, J; Vimla Singh Kapoor, J

Bench: Division Bench

Advocate: Bhaskar Payashi, Prateek Sharma, Tribid Bhattacharya

Final Decision: Dismissed

Judgement

Prashant Kumar Mishra, J

1. Challenge in this appeal is to the judgment of acquittal rendered by the trial Court acquitting the accused from the charges under Sections 450, 506

(Part-II) and 376 (1) of the Indian Penal Code.

2. The prosecutrix happens to be about 40 years of age. In the First Information Report (Ex.P/4) (FIR) lodged on 30-4-2006, it was reported that

about three years back the accused forcibly entered the house and finding the prosecutrix alone committed forcible sexual intercourse by criminally

intimidating her and thereafter, the said act of the accused continued in the same manner for number of years. In her case diary statement (Ex.D/3)

recorded on the same date the incident is said to have happened on 31-1-2003. When the prosecutrix was examined during trial she stated that on the

18th day of summer month of the year 2002 the accused committed forcible sexual intercourse for the first time and thereafter had continued for

several years. She further stated that the illegal act of the accused was informed to her husband on 31-1-2003. The record contains one Istgasa

(Ex.D/2) reducing information that a dispute took place between the accused and the husband of the prosecutrix for which a panchayat meeting was

convened and thereafter both the parties engaged in altercation and manhandling with each other on 31-1-2003.

3. In view of the above prosecution case and the evidence, it appears some altercation and manhandling happened between the accused and the

husband of the prosecutrix on 31-1-2003, which is exactly the date on which she was subjected to forcible sexual intercourse. Moreover, as per her

Court statement the first sexual encounter took place in the summer month of the year 2002, which was informed to her husband on 31-1-2003 and

thereafter, the FIR was lodged on 30-4-2006. Thus, not only there is a considerable delay in lodging the FIR but there is serious doubt as to whether at

all any offence of forcible sexual intercourse has taken place on 31-1-2003.

4. The prosecutrix being a grownup/matured lady, aged about 40 years; considering the delay in lodging the FIR; and dispute between the accused and

the husband of the prosecutrix, the trial Court has not committed any illegality or irregularity while acquitting the accused from the charges under

Sections 450, 506 (Part-II) and 376 (1) of the Indian Penal Code.

5. In the result, the acquittal appeal, sans merit, is liable to be and are hereby dismissed.