

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Appeal No. 485/1993

State of Rajasthan

----Appellant

Versus

Khinya Ram S/o Bagaram resident of Gagarana Tehsil Merta,
District Nagaur

----Respondent

For Appellant(s) : Mr. Sri Ram Choudhary, PP.

For Respondent(s) : None

HON'BLE MR. JUSTICE KULDEEP MATHUR

ORDER

04/07/2026

The instant appeal under Section 378(iii)&(i) of Cr.P.C. is directed against the judgment and order dated 23.07.1993 passed by the learned Judge, Special Court, SC & ST (Prevention of Atrocity) Act Cases, Merta in Sessions Case No.27/92(82/91) titled as State Vs. Khinya Ram whereby the learned trial court has acquitted the respondent for the offences punishable under Sections 447, 376/511 and 323 of IPC and Section 3(1)(xi)(xii) of the SC/ST Act.

The relevant facts of the case are that on 15.08.1991 on Magu Ram submitted a report before the Police Station, Gotan alleging *inter alia* that while the prosecutrix, Mst. Bali, was guarding the crop in the agricultural field, the accused-respondent trespassed into the field, assaulted her, and attempted to outrage her modesty and commit rape. It was alleged that upon the intervention of two women, namely Samudi and Geeta, who reached the spot on hearing her cries, the accused fled from the

place. Based on the report, a case was registered for offences under Sections 447, 323 and 376/511 of the IPC as well as Section 3(1)(xi) and 3(1)(xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Upon completion of investigation, the police filed a charge-sheet against the accused-respondent for the aforesaid offences. The Trial Court framed charges, to which the accused pleaded not guilty and claimed trial.

During the course of trial, the prosecution examined twelve witnesses, the statement of the accused was recorded under Section 313 Cr.P.C., and the defence also adduced evidence.

The learned trial court after sifting through the evidence on record and considering the allegations and finding the offences not to be proved against the accused-respondent, acquitted him for the offences punishable under Sections 447, 376/511 and 323 of IPC and Section 3(1)(xi)(xii) of the SC/ST Act.

The State has preferred this appeal challenging the acquittal of the accused-respondent for the aforesaid offences.

Mr. Sri Ram Choudhary, learned Public Prosecutor argued the appeal, took the Court through the oral testimony of the complainant who was the father in law of the prosecutrix, and submitted that having regard to the nature of allegations and gravity of offences and statements of the material prosecution witnesses, the learned court below was not justified in acquitting the accused-respondent for the offences punishable under Sections 447, 376/511 and 323 of IPC and Section 3(1)(xi)(xii) of the SC/ST Act.

He further argued that the prosecution has proved the guilt of the accused-respondent beyond reasonable doubt.

None has appeared on behalf of the accused-respondent.

Heard learned Public Prosecutor. Perused the impugned judgment as well as the original record of the case.

On a perusal of the record, the fact that the accused has willfully trespassed into the field of the complainant where his daughter-in-law was guarding the crops so also the fact that the accused has threw the prosecutrix on ground and attempted to rape her and the accused used force to commit the alleged offence, have not been aptly proved.

So far as contention of the learned Public Prosecutor that the accused could not have been acquitted for the offence under Section 376/511 is concerned, the nature of allegation and statements of the complainant are not sufficient to prove that the accused approached or trespassed the complainant's field with a motive to rape the prosecutrix. So far as acquittal under Section 376 is concerned, it is settled position of law that the High Court in its appellate jurisdiction cannot re-appreciate the evidence in its entirety, more particularly, in an appeal against the acquittal.

The Hon'ble Supreme Court in the case of **Ashok Rai Vs. State of U.P. & Ors.** decided on 15.04.2014 in Criminal Appeal No. 1508 of 2005, has held that in appeal against acquittal, the Court should be very slow and loath in interfering and unless there is a serious misreading of the evidence or procedural lapses in the trial, no interference should be made.

Relevant part of the judgment in the case of **Ashok Rai (supra)** reads as:-

"8. Several Judgments of this court have been cited on the principles which should guide the court while dealing with an appeal against order of acquittal. The law is so well settled that it is not necessary to refer to those judgments. Suffice it to say that the appellate court has to be very cautious while reversing an order of acquittal because order of acquittal strengthens the presumption of innocence of the accused. If the view taken by the trial court is are reasonably possible view it should not be disturbed, because the appellate court feels that some other view is also possible. A perverse order of acquittal replete with gross errors of facts and law will have to be set aside to prevent miscarriage of justice, because just as the court has to give due weight to the presumption of innocence and see that innocent person is not sentenced, it is equally the duty of the court to see that the guilty do not escape punishment. Unless the appellate court finds the order of acquittal to be clearly unreasonable and is convinced that there are substantial and compelling reasons to interfere with it, it should not interfere with it."

Reference may also be made to a judgment rendered in the case **Ramesh Harijan Vs. State of U.P.**, reported in **2012 AIR SCW 2990** wherein the Hon'ble Apex Court has observed that only in exceptional cases where there are compelling circumstances and the judgment in appeal is found to be perverse, the appellate court can interfere with the order of the acquittal. The appellate court should bear in mind the presumption of innocence of the accused and further that the trial court's acquittal bolsters the presumption of innocence. Interference in a routine manner where the other view is possible should be avoided, unless there are good reasons for interference.

This Court does not find any infirmity or error of fact or law in the impugned judgment and order passed by the learned trial court and the prosecution has failed to prove the charges levelled

against the accused-respondent beyond reasonable doubt to seek interference of this Court.

As an upshot of the forgoing discussion, the present appeal filed by the State against the acquittal of the respondent is dismissed. The judgment and order dated 23.07.1993 passed by the learned Judge, Special Court, SC & ST (Prevention of Atrocity) Act Cases, Merta in Sessions Case No.27/92(82/91) is upheld in its entirety.

The record be sent back forthwith.

(KULDEEP MATHUR),J

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