

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1780 OF 2009

NAKTU KUMBLE

.. APPELLANT(S)

VERSUS

STATE OF MAHARASHTRA

.. RESPONDENT(S)

O R D E R

1. This appeal is directed against the judgment and order passed by the High Court of Judicature at Bombay in Criminal Appeal No.106 of 1997, dated 06.02.2009 whereby and whereunder the High Court has confirmed the order of conviction passed by the Trial Court in Sessions Case No.228 of 1992 dated 05.03.1997.

2. The prosecution's case is as follows:

On 05.05.1992, at noon, at village Wadhona, the deceased-Shobha had gone near heaps of hay placed in the bed of the village tank in order to ease herself.

It is alleged by the prosecution that the appellant/ accused went to the spot, caught hold of her hands and tried to pull her towards himself. On hearing the shouts, the prosecution witnesses ran to her assistance and brought her and the appellant/ accused to the village. She was then taken to her house by her mother-in-law. On 08.05.1992, at night, the deceased-Shobha left her house and committed suicide. Subsequently, an FIR was registered against the appellant. On investigation being completed, a charge-sheet was submitted before the Trial Court.

3. Thereafter, on the appellant/ accused appearing before the Trial Court, charges were framed against the appellant for offences under Sections 354 and 306 of the Indian Penal Code (for short, "the IPC"). The charges were read over and explained to the appellant who pleaded not guilty. Consequently, the case was committed to trial.

4. The Trial Court considered the evidence on record as also the arguments of the parties and noticed that, though the testimonies of the prosecution witnesses suffered from certain minor omissions and contradictions, they had largely corroborated the prosecution's case that the appellant had been present at the site of the alleged incident on 05.05.1992 and had attempted to outrage the modesty of the deceased. However, the Court agreed with the contention of the defense that the appellant could not have known that the deceased would commit suicide and that the appellant had not abetted the deceased's suicide. Therefore, *vide* judgment and order dated 05.03.1997, the Trial Court, while acquitting the appellant of the offence under Section 306 of the IPC, convicted him of the offence under Section 354 of the IPC and sentenced him to rigorous imprisonment for a period of six months and a fine of Rs.2,000/-.

5. Aggrieved by the said conviction and sentence, the accused approached the High Court on the ground, *inter alia*, that the testimonies of the prosecution witnesses suffered from several material omissions and contradictions and could not be relied on.

6. By the impugned judgment and order dated 06.02.2009, the High Court re-appreciated the entire evidence on record and noticed that the testimonies of PWs 1 and 4 suffered from material omissions and were, therefore, unreliable. However, the High Court observed that the testimonies of PWs 2, 5 and 7 were consistent in all material respects and were sufficient to establish the fact that the appellant had held the deceased's hand and dragged her towards him, thereby outraging the deceased's modesty. Therefore, *vide* the impugned judgment and order, the High Court dismissed the appeal and upheld the order of conviction and order of sentence passed by the Trial Court.

7. Aggrieved by the judgment and order passed by the High Court, the appellant is before us in this appeal.

8. We have heard learned counsel for parties to the *lis*

9. After going through the judgment and order passed by the High Court and the Trial Court and also the material on record, the appellant's case fails to convince us. The High Court has rightly concluded that the testimonies of the prosecution witnesses conclusively established the fact that the appellant had held the deceased's hand and dragged her towards him, thereby outraging the deceased's modesty and we concur with the High Court's findings in this regard.

10. On the question of sentence, we find that, in light of the peculiar facts and circumstances of the case, the ends of justice would be met if we reduce the sentence imposed on the appellant to the period

of imprisonment already undergone by him.

11. In light of the aforesaid, the appeal is partly allowed. The order of conviction passed by the High Court is confirmed while the order of sentence is modified and the sentence imposed is reduced to the period of sentence undergone. The appeal is disposed of accordingly.

12. If the appellant has furnished any bail bonds, the same are discharged.

13. The order passed by us shall not be treated as a precedent in any other case.

Ordered Accordingly.

.....CJI.
[H.L. DATTU]

.....J.
[ARUN MISHRA]

NEW DELHI,
SEPTEMBER 08, 2015.

ITEM NO.6

COURT NO.1

SECTION IIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 1780/2009

NAKTU KUMBLE

Appellant(s)

VERSUS

STATE OF MAHARASHTRA

Respondent(s)

(With office report)

Date : 08/09/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE ARUN MISHRA

For Appellant(s) Mr. Shiv Sagar Tiwari,Adv.

For Respondent(s) Mr. Mahaling Pandarge, Adv.
Mr. Nishant Ramakantrao Katneshwarkar,Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal is partly allowed in terms of the signed order. If the appellant has furnished any bail bonds, the same are discharged.

This order shall not be treated as a precedent in any other case.

[Charanjeet Kaur]
A.R.-cum-P.S.

[Vinod Kulvi]
Asstt. Registrar

[Signed order is placed on the file]