

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 186 OF 2007

STATE OF U.P.

Appellant (s)

VERSUS

LALLOO

Respondent(s)

ORDER

Heard learned counsel for the parties.

This is an appeal against the Judgment and Order dated 8th January, 2003 of the High Court of Judicature at Allahabad in Criminal Appeal No. 301 of 1985 by which the High Court has allowed the appeal of the Respondent and set aside his conviction under Sections 376/366/363/323/452, I.P.C. and acquitted him of the charges.

We find on a reading of the impugned judgment and order dated 4th April, 1985 of the learned Additional Sessions Judge, Sitapur in Sessions Trial No. 486 of 1983 that the learned Sessions Judges had mainly relied on the evidence of the prosecutrix, PW 1, Smt. Lajjavati and convicted the Respondent.

Mr. Siddharth Dave, learned counsel appearing for the Respondent as Amicus Curiae has brought to our notice that the prosecutrix has herself filed a Complaint Case before the Chief Judicial Magistrate, Sitapur on 31st May, 1982 under Sections 354, 352, 506 and 504, I.P.C. in which she has alleged that when she came to learn that Bhagwati, with whom she was living, was trying to sell her to someone else, she on her own started living with the Respondent. In the said Complaint, it is also mentioned that PW 1 was aged 19 years at the time of lodging of the Complaint. It further appears from the evidence on record that PW 1, after having lived with the Respondent for more than four months, made a grievance against the Respondent that she had been sexually abused by the Respondent contrary to her consent.

In the facts and circumstances of the case, we are of the considered opinion that the High Court rightly took the view that this is not a case in which the Respondent could have been convicted on the testimony of PW 1, the prosecutrix.

We are, therefore, not inclined to interfere with the impugned judgment and order of the High Court in exercise of our powers under Article 136 of the Constitution.

The appeal fails and is dismissed.

Fee of Amicus Curiae is fixed at Rs.7,000/-.

.....J.
(A.K. PATNAIK)

.....J.
(CHANDRAMAULI KR. PRASAD)

NEW DELHI,
JANUARY 23, 2013
ITEM NO.114 COURT NO.9 SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 186 OF 2007

STATE OF U.P. Appellant (s)

VERSUS

LALLOO Respondent(s)

Date: 23/01/2013 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. PATNAIK
HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For Appellant(s) Ms. Pragati Neekhara, Adv.

For Respondent(s) Mr. Siddharth Dave, Adv. (A.C.)

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

The appeal fails and is dismissed in terms of the signed Order.
Fee of Amicus Curiae is fixed at Rs.7,000/-.

(G. SUDHAKARA RAO)		(KALYANI GUPTA)	
COURT MASTER		COURT MASTER	

(SIGNED ORDER IS PLACED ON THE FILE)