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RCC No. 352/2014
State Vs. Bhimrao
Exh. 18

Received on 10/12/2014.
Registered on 10/12/2014.
Decided on 04/07/2015.
Duration 00 Y 06 Ms 24 Ds

IN THE COURT OF SHRI S.S.UBALE JUDICIAL MAGISTRATE, F.C.
HINGOLI.

R.C.C.No. 352/2014

Exh.No.18

The State of Maharashtra
Through Police Station, Basamba,
Tq.& Dist.Hingoli.

... Prosecution.

Versus

Bhimrao S/o Samrat Kamble,
Age: 19 years, occ: Agri,
R/o Kherda, Tq. & Dist. Hingoli.

... Accused.

Charge :- Offences punishable under secs. 447, 354A(1)(ii), 323
& 506(2) of Indian Penal Code, 1860.

Appearance :-

Mr. S.D.Choutmal,
Mr. P.K.Puri

Ld. A.P.P for the State.
Ld.Adv. for the accused.

JUDGEMENT

(Delivered on 04/07/2015)

1- The accused is facing trial for the offences punishable under secs. 447, 354A(1)(ii), 323 & 506(2) of Indian Penal Code, 1860 (hereinafter referred to as I.P.C in short).





2- The background facts leading to the case of prosecution, in nutshell, are as follows-

On the fateful day of the incident i.e. on dated 27/10/2014 at about 8:00 a.m., the informant along with her son Santosh had been to her field situated within jurisdiction of village Kherda for the purpose of harvesting Soybean crops. At that time, accused unlawfully entered upon informant's land and caught hold her hand and expressed his willingness to have sexual intercourse with her. When the informant's son Santosh tried to rescue her, the accused gave slaps to him. In the said scuffle, informant's blouse was torn. The informant along with her son then raised hue and cry and resultantly, the accused left the spot of occurrence. While leaving the spot of occurrence, accused threatened to life of the informant. The said incident was then narrated by the informant to her husband.

3- On the aforesaid basis, the informant lodged her first information report dated 27/10/2014 as against the accused with Basamba Police Station and set the law in motion. On the basis of said report, offences punishable under secs.447, 354A(1)(ii), 323 & 506(2) of I.P.C. were booked vide Cr. No. 58/2014.

4- During the course of investigation, investigating officer (I.O.) visited the spot of occurrence and seized therefrom the broken pieces of bangle and prepared spot cum seizure





panchanama in presence of two panch witnesses. He then interrogated the witnesses having acquaintance with the facts and circumstances of the case at hand and recorded their statements in view of sec. 161 of Criminal Procedure Code, 1973 (hereinafter referred to as 'Cr.P.C.' in short). I.O. then nabbed the accused who was then enlarged on bail. As the investigation revealed complicity of the accused with commission of crime, I.O. charge sheeted him.

5- Upon going through the report under sec. 173(2) of Cr.P.C., documents submitted therewith and upon hearing the accused, I have framed charge Exh.13 as against the accused. Contents of charge were read over and explained to the accused in his vernacular form to which he pleaded not guilty and claimed for trial.

6- In the light of charge Exh.13, evidence adduced by the prosecution and having regard to the submissions made across the bar, the following points arise for determination and I have recorded my findings thereon for the reasons stated below -

POINTS

FINDINGS.

1- Whether the prosecution has proved that on dated 27/1/2014 at about 8:00 a.m., the accused committed criminal trespass by unlawfully entering upon agricultural land belonging to the informant situated within jurisdiction of village Kherda, Tq. & Dist.





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Hingoli with an intent to commit an offence and thereby committed an offence punishable under sec. 447 of I.P.C.

... In the negative.

- 2- Whether the prosecution has proved that on the aforesaid date, time and place, accused caught hold hand of the informant and demanded her for sexual favours and thereby committed an offence punishable under sec. 354(A)(1)(ii) of I.P.C?

... In the negative.

- 3- Whether the prosecution has proved that on the aforesaid date, time and place, accused voluntarily caused hurt to the informant's son Santosh by means of fist blows and thereby committed an offence punishable under sec. 323 of I.P.C?

... In the negative.

- 4- Whether the prosecution has proved that on the aforesaid date, time and place, accused threatened to the life of the informant and thereby committed an offence punishable under sec. 506(2) of I.P.C?

... In the negative.

- 5- What order ?

... As per final order.

REASONS

7- I have heard Ld. A.P.P Mr. S.D.Choutmal for the State and Ld. Adv. Mr. P.K.Puri for the accused at considerable length and have gone through the evidence available on record.





8- In order to prove it's case the prosecution has examined only the informant as PW-1 at Exh.17. It is matter of record that informant resiled from her previous statement and however she , in her cross examination taken by Ld. APP in view of provision of sec. 154 of Indian Evidence Act, 1872, has admitted that her dispute with the accused has been amicably settled outside the court. Resultantly, the evidence of the prosecution came to be closed vide order passed below Exh.1. As there is no incriminating evidence surfaced as against the accused, his examination under sec. 313 of Cr.P.C. has been dispensed with vide order passed below Exh. 1.

AS TO POINT Nos. 1 to 4.

9- Point Nos. 1 to 4 are being interlinked with each other, I have taken them for common discussion so as to avoid repetition of the evidence. It is pertinent to note that the informant in her cross examination taken by Ld. A.P.P. denied having made the portion mark 'A' appearing in her first information report to the effect that, ' on dated 27/10/2014 at about 8:00 a.m. the accused unlawfully entered upon her agricultural land and caught her hand, expressed his willingness to have sexual intercourse with her, gave slaps to her son Santosh and then threatened to her life'. Besides this, the informant has admitted in her cross examination taken on behalf of the accused that FIR was lodged by her out of





misunderstanding only and now she has no any complaint as against the accused.

10- Looking from any angle, evidence adduced by prosecution cannot be said to be sufficient to fasten on the accused guilt in connection with offences punishable under secs. 447, 354A(1)(ii), 323 & 506(2) of I.P.C. As the informant/P.W.1 turned hostile, prosecution has failed to prove as against the accused the offences punishable under secs. 447, 354A(1)(ii), 323 & 506(2) of I.P.C. Holding so, I have answered point Nos. 1 to 4 in the negative.

AS TO POINT No.5:

11- My aforesaid finding left me with no option but to arrive at an inevitable conclusion that the accused deserves to be acquitted of the offences punishable under secs. 447, 354A(1)(ii), 323 & 506(2) of I.P.C. Holding so, I proceed to pass the following order:-

ORDER

- 1- Accused Bhimrao S/o Samrat Kamble, Age: 19 years, occ: Agri, R/o Kherda, Tq. Dist. Hingoli is hereby acquitted under sec. 248(1) of Cr.P.C, of the offences punishable under secs. 447, 354A(1)(ii), 323 & 506(2) of I.P.C.
- 2- Bail bonds of the accused stand cancelled.





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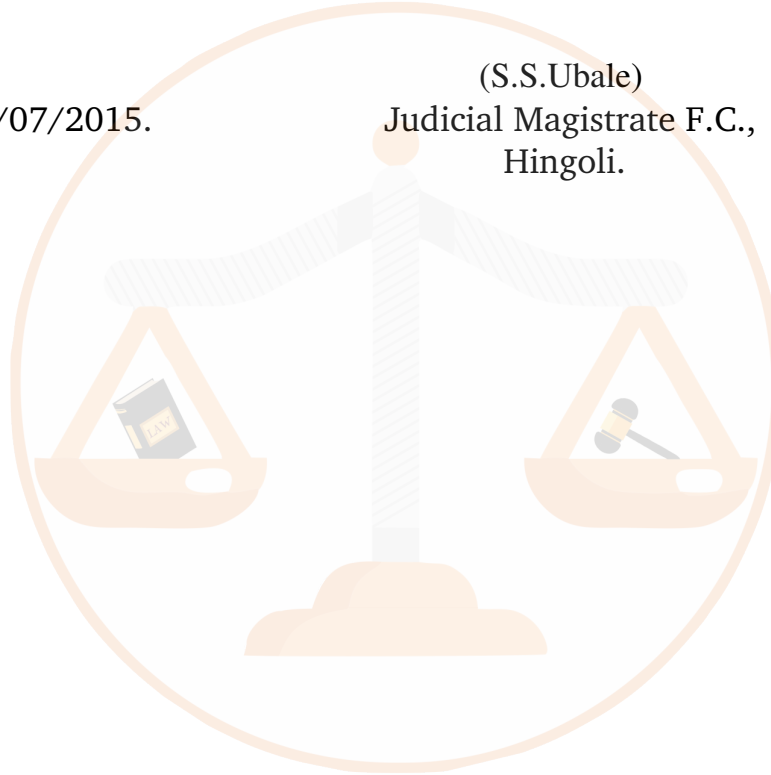
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- 3- Muddemal property broken pieces of bangle being worthless, be destroyed after expiry of appeal period.
Dictated and pronounced in the open court.

Date: 04/07/2015.

(S.S.Ubale)

Judicial Magistrate F.C.,
Hingoli.



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