

State of M. P. Versus Madanlal.

Dipak Misra & Prafulla C. Pant, JJ.

In the Supreme Court of India.

Date of Judgment - 01.07.2015.

Relevant Extract

Section 376(2) (f) - Sec. 511- Sec. 363 of IPC -FIR lodged by the mother of the Prosecutrix - Prosecutrix was a seven years old girl -Trial Court passed judgment for rigorous imprisonment of the five years - High Court converted the offence Under Section 354 of IPC – In Appeal Supreme Court remitted back to the High Court indicating the duty of the Appellate Court as per the dictum expressed in the cases of ***K. Anbazhagan v. State of Karnataka and Others and Shimbhu and Another v. State of Haryana.***

In *K. Anbazhagan v. State of Karnataka and Others*, a three-Judge Bench addressing the manner of exercise of jurisdiction by the appellate court while deciding an appeal has ruled that: - “The appellate court has a duty to make a complete and comprehensive appreciation of all vital features of the case. The evidence brought on record in entirety has to be scrutinized with care and caution. It is the duty of the Judge to see that justice is appropriately administered, for that is the paramount consideration of a Judge. The said responsibility cannot be abdicated or abandoned or ostracized, even remotely, solely because there might not have been proper assistance by the counsel appearing for the parties. The appellate court is required to weigh the materials, ascribe concrete reasons and the filament of reasoning must logically flow from the requisite analysis of the material on record. The approach cannot be cryptic. It cannot be perverse.

The duty of the Judge is to consider the evidence objectively and dispassionately. The reasonings in appeal are to be well deliberated. They are to be resolutely expressed. An objective judgment of the evidence reflects the greatness of mind – sans passion and sans prejudice. The reflective attitude of the Judge must be demonstrable from the judgment itself. A judge must avoid all kind of weakness and vacillation. That is the sole test. That is the litmus test."

In Shimbhu and Another v. State of Haryana, wherein, a three-Judge Bench has ruled thus: "Further, a compromise entered into between the parties cannot be construed as a leading factor based on which lesser punishment can be awarded. Rape is a non-compoundable offence and it is an offence against the society and is not a matter to be left for the parties to compromise and settle. Since the Court cannot always be assured that the consent given by the victim in compromising the case is a genuine consent, there is every chance that she might have been pressurised by the convicts or the trauma undergone by her all the years might have compelled her to opt for a compromise. In fact, accepting this proposition will put an additional burden on the victim. The accused may use all his influence to pressurise her for a compromise. So, in the interest of justice and to avoid unnecessary pressure/harassment to the victim, it would not be safe in considering the compromise arrived at between the parties in rape cases to be a ground for the Court to exercise the discretionary power under the proviso of Section 376(2) IPC."

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