

SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.342/2020
[Arising out of SLP (Cr1) No.138 of 2020]

ASHABAI KUNDALIK CHATE

APPELLANT(s)

VERSUS

THE STATE OF MAHARASHTRA

RESPONDENT(s)

O R D E R

Leave granted.

The appellant assails her conviction under Section 306/511 Indian Penal Code (IPC) sentencing her to five years in custody.

The prosecutrix, PW1 was the victim of a sexual assault on 20.02.2012 by accused 1 and 2. They have been convicted under 376(g) IPC. The appellant, arrayed as accused no.3, was a home-guard deputed to take the victim for a medical examination on 21.02.2012. The appellant, while at the hospital is stated to have told PW1 that she would ask the accused persons to pay her two to three lakhs and that she should keep quiet as otherwise the occurrence may get published in the newspaper and on television, which will be defamatory and insulting to PW1. The witness is stated to have felt harassed and consumed an overdose of contraceptive pills three days later on 24.12.2012. As a result PW1 started to vomit after dinner and felt giddiness. She was taken to the hospital and the police report was lodged on 25.12.2012 against the appellant. The only allegation against the appellant is the solitary utterance made by her at the hospital.

We have heard the learned counsel for the parties at length.

It is not considered necessary to deal with the entire submissions made on behalf of the parties. The conviction itself is based on a preponderance of probability and not proof beyond reasonable doubt. In the circumstances, the benefit of doubt ought to have been given to the appellant. The Trial Court at paragraph No.118 of the judgement has observed as follows:-

"The prosecution have proved its case from probability to possibility and possibility to the extent of more 50% of certainty against accused Nos.1 to 3. In that event either of accused not entitled for benefit of doubt. With the help of above brief reasons, I answer Point No.7 in the affirmative."

We find it difficult to sustain the conviction of the appellant in the facts and circumstances of the case for the solitary utterance made by her at the hospital premises as being the proximate cause for the attempted suicide as urged by the prosecution. The consumption of an overdose of pills cannot be said to be linked with certainty solely to the solitary utterance by the appellant. The sexual assault barely days ago was certainly a more harrowing and dehumanising experience for PW1. The fact that she may have attempted to commit suicide due to the same is a more reasonable possibility for which the benefit of doubt has to be given to the appellant. The conviction of the appellant is therefore held to be unsustainable and is set aside. The appellant is directed to be released forthwith unless wanted in any other case.

The appeal is allowed.

.....J.
[NAVIN SINHA]

.....J.
[KRISHNA MURARI]

NEW DELHI;
24th FEBRUARY, 2020

ITEM NO.38

COURT NO.14

SECTION II-A

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

SLP (Cr1) No.138 of 2020
(Criminal Appeal No.342/2020)

ASHABAI KUNDALIK CHATE

Appellant(s)

VERSUS

THE STATE OF MAHARASHTRA

Respondent(s)

(FOR ADMISSION and I.R. and IA No.172623/2019-EXEMPTION FROM
FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 24-02-2020 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE NAVIN SINHA
HON'BLE MR. JUSTICE KRISHNA MURARI

For Appellant(s) Mr. Sudhanshu S. Choudhari, AOR
Mr. Mahesh Shinder, Adv.
Mr. Govind Venugopal, Adv.

For Respondent(s) Mr. Devansh A. Mohta, Adv.
Mr. Rahul Chitnis, Adv.
Mr. Sachin Patil, AOR

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

Leave granted.

The appeal is allowed.

Pending application(s), if any, shall stand disposed of.

(RASHMI DHYANI)
SENIOR PERSONAL ASSISTANT

(DIPTI KHURANA)
COURT MASTER

(Signed order is placed on the file)