

* **HIGH COURT OF DELHI : NEW DELHI**

Judgment Reserved on: May 20, 2009
Judgment Pronounced on : May 21, 2009

+ **Crl. Appeal No. 62 of 2000**

% Raj Kumar ... Appellant
 Through: Mr. Manoj Sharma, Legal Aid
 Counsel

versus

The State (N.C.T. of Delhi) ... Respondent
 Through: Mr. Amit Sharma, Additional
 Public Prosecutor for State

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

SUNIL GAUR, J.

1. Appellant has been tried and convicted for commission of offence of rape. A young girl of eighteen years or so, had left her parental house on 10th June, 1998, as she was beaten by her alcoholic father and she boarded the train from Agra and came to Delhi and at the railway station, she is said to have met the appellant/accused, who took her to his house at *Sagarpur* by alluring her with a job in a factory. It is said that the appellant/accused had

raped the hapless illiterate girl (hereinafter referred to as the Prosecutrix (PW-1)) on 17th and 21st June, 1998 and when her confinement in the house of the appellant/accused was noticed by the land-lord, prosecutrix (PW-1) was allowed to go and she reported this matter to the local police on 24th June, 1998 and thereafter, she was got medically examined wherein, in the alleged history given by her, as recorded in her MLC (EX. PW3/A), she had named the appellant/accused as the person who had raped her.

2. During the investigation of this case, the appellant/accused was arrested and he was got medically examined. After the investigation of this case was complete, a charge-sheet was filed against the appellant for the offence of wrongful confinement of the prosecutrix (PW-1) and of raping her.

3. Appellant was put to trial for the offence under Section 344 of the IPC and also for the offence under Section 376 of the IPC. Out of the eight witnesses, two had deposed at trial. The evidence of the prosecutrix (PW-1) is crucial. The remaining evidence consists of deposition of Doctors and other police officials. SI Neeraj Chaudhary (PW-6) is the Investigating Officer of this case. The plea taken by the appellant/accused before the trial court was

of denial. However, the appellant/accused had got his mother-in-law examined in his defence. As per the deposition of mother-in-law (DW-1) of the appellant, he is innocuous. All that she states is that appellant brought the prosecutrix (PW-1) and had left her at her house and the prosecutrix (PW-1) had stayed with her for two days and later, she got a job and thereafter, she trapped the appellant in this false case.

4. The trial culminated in the conviction of the appellant for the offence of rape and vide impugned order of 16th September, 1999, the trial court sentenced the appellant to RI for seven years, with fine of Rupees two thousand, with default clause.

5. In this appeal, submissions have been advanced by Legal Aid Counsel Mr. Manoj Sharma as well as by Mr. Amit Sharma, learned Additional Public Prosecutor for the State and with their assistance, the evidence and record of this case has been scrutinized.

6. The contentions advanced on behalf of the appellant were that the prosecutrix (PW-1) did not complain to anyone about she being raped by the appellant/accused. It is pointed out that neither the land-lord nor the factory owner, where the Prosecutrix was employed, nor Asha who used to work with the prosecutrix (PW-1), at the

factory, have been examined in this case to corroborate the version of the prosecutrix (PW-1), which according to Counsel for the appellant is not reliable.

7. On the other hand learned Additional Public Prosecutor for the State submits that the prosecutrix (PW-1) has truthfully deposed and her deposition is consistent and reliable and it is stated that this appeal is devoid of merit.

8. What is required to be seen in this appeal is whether the deposition of the prosecutrix (PW-1) is reliable or not. It is settled legal position that once the deposition of the prosecutrix is found to be reliable, then corroboration need not be insisted upon. In the case of “*State of Punjab Vs. Gurmeet Singh and Ors.*” **AIR 1996 SC 1393**, the pertinent observations made by the Apex Court, are as under:-

Of late, crime against women in general and rape in particular is on the increase. Rape is not merely a physical assault – it is often destructive of the whole personality of the victim. A murderer destroys the physical body of his victim, a rapist degrades the very soul of the helpless female. The Courts, therefore, shoulder a great responsibility while trying an accused on charges of rape. They must deal with such cases with utmost sensitivity. The Courts should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not of a

fatal nature, to throw out an otherwise reliable prosecution case. If evidence of the prosecutrix inspires confidence, it must be relied upon without seeking corroboration of her statement in material particulars. If for some reason the Court finds it difficult to place implicit reliance on her testimony, it may look for evidence which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case and the trial court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestations.

9. The testimony of the prosecutrix (PW-1), when read in its entirety, reveals that she has deposed in a straight forward manner and her deposition has got a ring of truth in it. It is found that the cross-examination of the prosecutrix (PW-1) by the defence mainly centres around the prosecutrix leaving her house and regarding her wrongful confinement. There is no worthwhile cross-examination of the prosecutrix (PW-1) regarding the main incident, i.e. rape. The suggestion put to the prosecutrix by the defence is that she was a consenting party. Why she would consent when she knew that appellant is a married person and his wife was living with him. In any case, the prosecutrix (PW-1) was in an alien environment and the circumstances of this case indicate that her consent to the sexual intercourse was not voluntarily one.

Non-examination of the land-lord, neighbor or the factory owner, is inconsequential as the testimony of the prosecutrix (PW-1) alone is found to be sufficient to justify the conviction of the appellant/accused for the offence of rape.

10. Upon indepth analysis of the evidence on record, I find that the impugned conviction and the sentence imposed upon the appellant by the trial court, is fully justified and it calls for no interference in this appeal. This appeal lacks merit and is hereby dismissed.

11. Appellant is in custody in some other case. He be apprised of this order through the concerned Jail Superintendent and the Compliance Report be submitted to this court by the Jail Authorities, within two weeks.

12. This appeal stands disposed of in terms, as aforesaid.

Sunil Gaur, J.

May 21, 2009

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