



2026:000:107594

HIGH COURT OF JUDICATURE AT ALLAHABAD

JAIL APPEAL No. - 3361 of 2015

Mangal

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	From Jail, V.P. Singh Kashyap
Counsel for Respondent(s)	:	A.G.A.

Court No. - 93

HON'BLE MRS. VANI RANJAN AGRAWAL, J.

1. This appeal has been filed by appellant against the judgment and order dated 1.12.2014 passed by Additional Sessions Judge, Budaun, in S.T. No.857 of 2013, State Vs. Balraj and another, arising out of Case Crime No.289 of 2012, under Sections 450, 323, 366, 376(2) I.P.C., Police Station- Rajpura, District- Budaun.
2. Heard Sri V.P. Singh Kashyap, learned Amicus Curiae on behalf of appellant and Sri Rahul Asthana, learned A.G.A. for the State.
3. According to the prosecution case, on the night intervening 30/31.5.2012, the informant was sleeping in his house, while his daughter aged about 14 years was sleeping in the courtyard of the house. At about mid night, Sumra, his neighbour, w/o Hori Lal called out to the girl and got the door latch open. As soon as the girl opened the door, two persons accompanying Sumra forcibly entered the house. They gagged the girl by stuffing a cloth into her mouth and forcibly took her towards the Jungle with an evil intention. Thereafter, both the accused persons committed rape on her one after another in a sugarcane field and kept her there throughout the night. On the following afternoon, they abandoned her in an injured condition near Maharaja Hotel at village Deeppur.
4. On the basis of the written report, FIR was registered and G.D. entries were made. The investigation commenced and the victim was medically examined. Her Ossification test was also conducted in order to determine her age. After investigation of the case, charge-sheet was submitted for offences under Section 363, 366, and 376 (g), 452, 323 I.P.C against accused persons Balraj and Mangal and for Sumira charge-sheet was submitted for offences under Section 452, 363, 366 I.P.C.
5. Charges were framed against the accused persons Balraj and Mangal. They pleaded not guilty and claimed trial.

6. The prosecution has examined P.W.-1 Dr. Hakim Singh, P.W.-2 the complainant Komil, P.W.-3, victim, the daughter of the complainant, P.W.-4 S.I. Kamal Singh, P.W.-5 S.S.I. Roop Singh, P.W.-6 S.I. Sher Singh. Documentary evidence medical examination report Ext. Ka-1, X-ray report Ext. Ka-2, Ossification test report, Ext. Ka-3, supplementary Ext. Ka-4, written report Ext. Ka-5, statement under Section 164 Cr.P.C. Ext. Ka-6, chik FIR Ext. Ka-7, carbon copy of G.D. Ext. Ka-8, site plan Ext. Ka-9 and Ka-10, charge-sheet Ext. Ka-11 and medical examination report Ext. Ka-12 are available on record, duly proved by the prosecution case.

7. P.W. – 1 Dr. Hakim Singh medically examined the victim, he stated that no visible injury mark was found on her body.

8. P.W.-2 the informant Komil Singh supported the entire prosecution story in his testimony.

9. P.W.-3 the daughter of the complainant also confirmed the occurrence of the incident in her statement.

10. P.W.-4 Sub Inspector Kamal Singh stated that he prepared the chik report and made the relevant general diary entry on the basis of the written complaint submitted by the informant.

11. P.W.-5 S.S.I. Roop Singh is the Investigating Officer who deposed regarding the investigation proceedings conducted by him.

12. P.W.-6 S.I. Sher Singh stated that while sending the injured for medical examination he noted an injury on her leg which appeared to be about 2 to 3 days old.

13. Thereafter the statements of the accused persons were recorded under Section 313 Cr.P.C., wherein they stated that they had gone early in the morning to take a bath in river Ganga. While returning the daughter of the complainant met them on the way and told them to inform her family members that she was going to commit suicide. The accused stated that since she was the sister of one of their friends. They tried to persuade her and ultimately brought her back and handed her over to her brother. According to accused persons the brother of the victim then remarked that they should have let her die since she had gone to commit suicide. Thereafter they left the place.

14. D.W.-1 Nanhe alias Jaypal was examined as defence witness. He stated that on 31.05.2012, while he had gone to take a bath in the river Ganga. He saw a girl near the embankment with her face cover by a scarf. She told him that she was going to commit suicide and asked him to inform her family members accordingly. When the girl removed the scarf from her face, he recognized her as the sister of Megh Singh. Upon being persuaded by him the girl stated that her family members had beaten her and, therefore, she intended to commit suicide. The witness further stated that four other

persons were also present with him. All of them consult and persuaded the girl and ultimately brought her back. On the way, they met her brother Megh Singh in the village itself and handed over the girl to him. However, her brother remarked as to while they had brought her back stating that since she had gone to die, they should have allowed her to die. Thereafter, they left the girl there and returned to their respective homes.

15. After hearing the arguments advanced by both the parties and considering the evidence on record, the trial court convicted the accused persons for offences under Sections 450, 366, 376(2) and 323 I.P.C. and sentenced them to undergo five years of rigorous imprisonment along with a fine of Rs.5000/- for offence under Section 450 IPC, seven years rigorous imprisonment along with a fine of Rs.10000/- for offence under Section 366 IPC, ten years of rigorous imprisonment along with a fine of Rs.10000/- for offence under Section 376(2g) and 6 months of imprisonment along with fine of Rs.5000/- for offence under Section 323 IPC.

16. Aggrieved with the judgment and conviction of sentence, these appeals have been filed on the ground that the judgment and order passed by learned court below is bad in the eyes of law and against the weight of evidence on record and the sentence imposed is too severe.

17. Learned A.G.A. for the State supported the judgment of conviction and sentence.

16. During the course of hearing of the appeal both sides were heard at length and entire trial court was perused.

18. On the record of the appeal, a report dated 24.08.2022 submitted by the CJM, Budaun was also brought on record, wherein it was mentioned that as per the report received from the District Jail, Budaun, accused Mangal s/o Ram Nath had been transferred on 08.06.2019 to Central Jail Fatehgarh for serving the remaining part of his long term sentence. Thereafter, according to the communication, received from Central Jail, Fatehgarh through the Section Officer, the accused Mangal had already completed his substantive sentence and after depositing the fine of Rs.25000/- was released from jail on 28.12.2020.

19. Since the sentence awarded to the accused had already been undergone, the learned Amicus Curiae, appearing on behalf of the accused did not want to press the appeal on merit and prayed that the conviction and sentence awarded by the trial court be upheld and the appeal be finally disposed of accordingly.

20. Upon careful consideration of the entire evidence on record, including the statements of witnesses, this Court finds that the testimony of the victim has remained wholly consistent from the very inception of the case. The statement given by the victim, under Section 164 Cr.P.C. is fully

corroborated by her statement made before the trial court. The same also finds support from the testimony of the informant and the other prosecution witnesses.

21. Considering the entire oral and documentary evidence on record, this Court is of the considered opinion that the prosecution has successfully proved the charge against the appellant beyond reasonable doubt. The conviction and sentence recorded by the trial court, therefore, warrant no interference.

22. Consequently, the appeal lacks merit and is hereby, dismissed. The conviction and the sentence awarded to the appellant are hereby affirmed.

23. This Court appreciates the assistance provided by Sri V.P. Singh Kashyap, learned Amicus Curiae, who has assisted the Court and for the service rendered by him, an honorarium of Rs. 10,000/- shall be paid to him as per rules.

May 8, 2026
P. Pandey

(Mrs. Vani Ranjan Agrawal,J.)