

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.803 of 2012

Arising Out of PS. Case No.-7 Year-2010 Thana- MASRAKH District- Saran

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Dhananjay Singh ,son of Kameshwar Singh, resident of Village- Nawada,
P.S.- Mashrakh, District- Saran at Chapra

... .. Appellant

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Appellant/s	:	Mr. Ramakant Sharma, Sr. Adv. Mr. Mukesh Kumar Singh, Adv.
For the Respondent/s	:	Mr. Ajay Mishra(APP)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

and

HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAKESH KUMAR)

Date : 29-11-2017

The present appeal has been filed under Section 374(2) read with Section 389(1) of the Code of Criminal Procedure,1973 against the Judgment of conviction of the appellant dated 12.07.2012 passed by Sri Diwakar Mishra, learned 1st Addl. Sessions Judge, Saran at Chapra-cum- Special Judge, SC/ST(P.O.A.) Act, Saran at Chapra in Sessions Trial No.647 of 2010 arising out of Mashrakh P.S. Case No.07 of 2010. By the said Judgment, the sole appellant has been convicted under Section 376 of the Indian Penal Code and by order of sentence dated 13.07.2012, he has been directed to undergo imprisonment for life and pay fine of Rs.20,000/-to victims or parents of both victims in



equal share and in default of payment of fine, the appellant has been directed to further undergo rigorous imprisonment for two years. However, the appellant was acquitted from the charge under Section 3(1)(x) of Scheduled Castes/Scheduled Tribes(Prevention of Atrocities) Act, 1989 (hereinafter referred to as “SC/ST Act”).

2. At the very outset, Sri Ramakant Sharma, learned Senior Counsel, assisted by Sri Mukesh Kumar Singh, learned counsel for the appellant tried to persuade the Court to reduce the period of sentence and he requested that though the appellant has been sentenced to undergo rigorous imprisonment for life, considering his age at the time of occurrence, his sentence may be reduced to imprisonment of seven years, which was minimum prescribed sentence for the offence under Section 376 of the Indian Penal Code. To substantiate his submission regarding reduction of period of sentence, learned Senior Counsel appearing on behalf of the appellant has placed reliance on a Judgment of the Hon’ble Apex Court, **reported in 2005(1) CrI.L.J 335; State of Madhya Pradesh Vs. Balu.**

3. We have perused the Judgment of Balu’s case (supra) and after noticing observation of the Hon’ble Supreme Court, we are of the opinion that keeping in view the seriousness of accusation and observation of Hon’ble Apex Court in respect of sentencing



offender for offence under Section 376 of the Indian Penal Code the appellant deserves no leniency. It is necessary to reproduce observation of Hon'ble Supreme Court in paragraph nos.19 and 20 of the said Judgment i.e. Balu's case(Supra) which are as follows:

“19. A 3-Judge Bench of this Court in the case of State of Karnataka Vs. Krishnappa (2000(4) SCC75) while considering the question of reduction of sentence in a rape case observed thus: “The approach of the High Court in this case, to say the least, was most casual and inappropriate. There are no good reasons given by the High Court to reduce the sentence, let alone “special or adequate reasons”. The High Court exhibited lack of sensitivity towards the victim of rape and the society by reducing the substantive sentence in the established facts and circumstances of the case. The Courts are expected to properly operate the sentencing system and to impose such sentence for a proved offence, which may serve as a deterrent for the commission of like offences by others.”

20. Herein, we may also usefully refer to the observation of this Court in the case of T.K. Gopal alias Gopi Vs. State of Karnataka (2000(6) SCC 168), wherein it was held:

“The question of sentence in such cases was considered by Krishna Iyer.J in Phul Singh Vs. State of Haryana(1979(4) SCC 413) in which he observed that sentencing efficacy in cases of lust-loaded criminality cannot be simplistically assumed by award of long incarceration, for, often that remedy aggravates the malady. He further observed that a hypersexed homo



sapien cannot be rehabilitated by humiliating or harsh treatment. In that case it was found that the appellant was a young man of 22 years with no criminal antecedents save the offence of rape committed by him. The learned Judge thought that given correctional courses through meditational therapy and other measures, his erotic aberrations may wither away, particularly as the appellant had a reasonable prospect of shaping into a balanced person. But, this theory was not followed in later decisions as it was found that in spite of devices having been employed and adopted within the jail premises so as to reform the offenders, there was negligible improvement in the commission of crime. Crime, instead of declining, had increased and, today, it has assumed dangerous proportions. While one person is reformed and moves out of jail, another offender is born. Consequently, in two recent decisions, relating to the offence of rape, one rendered by the present Chief Justice of India and the other by brother Lahoti, the sentence was enhanced in State of Karnataka Vs. Krishnappa(2000(4) SCC 75) while in the other case, namely, State of Rajasthan Vs. N.K. (2000(5) SCC 30)the order of acquittal passed by the High Court was set aside and substituted by an order of conviction.”

4. On perusal of the observation of the Hon’ble Apex Court, it is evident that considering the fact regarding commission of such serious type of offence, the Hon’ble Supreme Court has deprecated the approach of adopting lenient view in respect of sentence. In the present appeal, the



appellant has been convicted on the charge of attempting to commit rape on one of the minor girls, aged about 7-8 years and committing rape on another victim, who was also a minor, aged about 7-8 years, at the time of occurrence. The victim, due to shock of penetration in the rape became unconscious and she remained unconscious for a considerable time and at the time of occurrence profuse bleeding was found. Considering the seriousness of nature of the proved charge, we are of the view that no lenient approach can be taken to reduce the period of sentence.

5. Short fact of the prosecution case is that on 04.02.2010 at about 3.30 P.M., the Assistant Sub-Inspector of Police of Mashrakh Police Station recorded fardbeyan of one Anita Devi(P.W.6), mother of victim Sony Kumari, who was raped. In the fardbeyan, the informant disclosed that on 04.02.2010 at about 11.00 A.M. her daughter Sony Kumari, aged about 10 years with daughter of her Diyadin(agnate), namely, Priti Kumari, aged about 10 years, had gone out for cutting grass in the northern side of the village. While cutting grass near the government land, at about 2.00 P.M.,Dhananjay Singh(appellant) arrived there on a bicycle and told both children that near Baswari (bamboo orchard), he had piled up



grasses and asked them to go and collect the same. Thereafter, the appellant leaving his bicycle proceeded towards Baswari, who was followed by Sony Kumari and Priti Kumari with a view to collect the grass. In the Baswari, the appellant removed the panty (undergarment) of Priti Kumari and he firstly tried to commit rape on her, but he did not get success. Thereafter, leaving Priti Kumari, the appellant threw Sony Kumari and committed rape on her. After committing rape, the appellant left the place of occurrence. After the occurrence, Priti Kumari weeping returned to her house and explained about the occurrence. She also disclosed that Sony Kumari was lying in unconscious state in Baswari itself. Thereafter, the informant with other persons reached at Baswari and saw that Sony Kumari was in unconscious state and blood was oozing out from her private part. Thereafter, the informant raised hulla, upon which her father-in-law, namely, Ram Prasad Ram and others arrived there and Sony Kumari was carried to her house. Thereafter, all the villagers surrounded the house of the appellant, where the appellant was taking bath near the tube-well. The police was also informed and after arrival of police, the appellant was arrested. The police carried both victims as well as the appellant to the police



station and fardbeyan of the informant was got recorded. On the basis of aforesaid fardbeyan, a formal F.I.R. was lodged on 04.02.2010 at 6.00 P.M. vide Mashrakh P.S. Case No.07 of 2010 for the offence under Section 376 of the Indian Penal Code against the sole appellant. During investigation, the Investigating Officer recorded re-statement of the informant and also statement of other witnesses. The Investigating Officer visited the place of occurrence and after arrival at the place of occurrence, he seized four bamboo leaves and one pipal leaf stained with blood from the place of occurrence. During investigation, the case was found true and, thereafter on 28.03.2010 chargesheet was submitted against the appellant under Section 376 of the Indian Penal Code and Section 3(ii) (vi) of SC/ST Act. It is clarified that during investigation, witnesses have said that taking advantage that the victim was from suppressed family and of scheduled casts, the appellant had committed such offence. After submission of chargesheet, cognizance order was passed on 23.06.2010. Subsequently, after completing all formalities under Section 207 of the Code of Criminal Procedure, on 15.09.2010 the case was committed to the court of Session and finally on 29.09.2010, charge under Section 376 of the Indian Penal



Code and Section 3(i)(x) of SC/ST Act was framed against the appellant.

6. Since the appellant denied the charges and claimed to be tried, the prosecution to prove its case examined altogether twelve witnesses. After completion of the prosecution evidence, the circumstances and evidences, which were collected during the trial, were explained to the appellant and statement under Section 313 of the Code of Criminal Procedure was recorded. The appellant with a view to disprove the case also examined one witness as defence witness, namely, Rameshwar Singh. Since the prosecution had proved its case beyond all reasonable doubt, the learned trial Judge has passed Judgment of conviction and sentence, which has been assailed in the present appeal.

7. Sri Ramakant Sharma, learned Senior Counsel appearing on behalf of the appellant after placing entire evidence has argued that the prosecution case has not been proved beyond all reasonable doubt and the appellant has seriously been prejudiced due to the reason that though on the date of occurrence itself, the appellant was arrested by the police, the police did not take any steps to medically examine him. He has argued that since there was allegation of



committing rape on minor girl against the appellant, there was every possibility of injury on the private part of the appellant, but to the reasons best known to the Investigating Officer, the appellant was not got medically examined. He has further argued that though the prosecution has established its case that undergarments of both victims and at least undergarment of Sony Kumari, which was allegedly soaked with blood, were seized and also blood stained leaves were seized, same were not sent for chemical examination to the Forensic Science Laboratory and there is no report as to whether blood-stain found on the clothes of Sony Kumari and also on bamboo leaves and pipal leaf was of the human or animal and what to say about the same of the victim itself. He has further argued that non-examination of the appellant by the Medical Officer has seriously prejudiced the case of the appellant. To substantiate his submission that in such cases, reduction of period of sentence would be extended to the accused, he has placed reliance on a Judgment reported in **AIR 1973 SUPREME COURT 343 (Rahim Beg and Anr. vs. State of U.P.)** and he has specifically referred to paragraph-26 of the said Judgment, which is as follows:

“26. According to Dr. Katiyar, Medical Officer of District Jail Rae Bareli, if a girl of 10 or 12 years who



is virgin and whose hymen is intact is subjected to rape by a fully developed man, there are likely to be injuries on the male organ of the man. No injury was, however, detected by the doctor on the male organ of any of the two accused. The absence of such injuries on the male organs of the accused would thus point to their innocence. The examination of the two accused by Dr. Katiyar was on August 5, 1969. The two accused, however, had been arrested, according to the prosecution, on the morning of August 4, 1969. No cogent explanation has been furnished as to why they were not soon thereafter got medically examined by the police.”

8. Sri Sharma has argued that in view of the fact that the appellant was not medically examined, though he was arrested on the date of occurrence itself and the fact that no report from the Forensic Science Laboratory was obtained nor the seized clothes as well as leaves were sent for medical examination, the prosecution has not established its case beyond all reasonable doubt. He submits that the appellant deserves lenient approach of this Court and sentence of rigorous imprisonment for life may be reduced to the minimum prescribed sentence i.e. seven years.

9. Sri Ajay Mishra, learned Addl. Public Prosecutor submits that in case of rape, the evidence of prosecutrix is itself enough for holding the accused guilty and sentencing



him, whereas in the present case, two victims had come forward to depose as to how brutally this appellant had firstly tried to commit rape on Priti Kumari (P.W.8) and finally, he succeeded in committing rape on Sony Kumari(P.W.9); both victims were minor and on private part of both victims, there were sign of either committing rape or attempting to commit rape. Those injuries were examined by a Medical Board consisting two doctors, namely, (i) Dr. Jayshree Prasad and (ii)Dr. Neela Singh, who have been examined as P.W.11 and P.W.12 respectively and both doctors have found injuries on the private part of both victims, which makes it clear that it was out and out a case of commission of rape and the prosecution has proved its case beyond all reasonable doubt. Besides this, Sri Mishra, learned Addl. Public Prosecutor has argued that even in the present case, there was one witness, who was a minor and she has stated that about one hour prior to the occurrence, she had seen that the appellant had carried two victims to different place. There are number of witnesses, who immediately after getting information from Priti Kumari that Sony Kumari was raped and she was lying in unconscious state in Baswari, visited Baswari and they had found victim Sony Kumari lying in unconscious state and profuse bleeding



was coming out from her private part. He submits that since the evidence of victim regarding commission of rape has also been corroborated by other evidence, there was no reason for the learned trial Judge to pass any other order than to pass the Judgment of conviction and sentencing the appellant for life. So far as reduction of period of sentence is concerned, Sri Mishra, learned Addl. Public Prosecutor has argued that there is no reason for reducing the same since in the present case the appellant has been convicted for offence relating to commission of rape on minor girl. He further submits that reduction of sentencing period for such offence has not been appreciated by the Hon'ble Apex Court, which can be noticed from the Judgment, on which reliance was placed by learned counsel for the appellant i.e. 2005 CrL.L.J. 335; State of Madhya Pradesh Vs. Balu. He has argued that the appellant does not deserve leniency and the appeal is fit to be rejected.

10. Besides hearing learned counsel for the parties, we have perused the entire evidence i.e. both documentary evidence and oral evidence. Before proceeding, it would be necessary to firstly notice what Priti Kumari (first victim) has deposed during trial, since she was the first person, who was firstly attempted to be raped and she had also seen commission



of rape on victim Sony Kumari and seen her in unconscious condition with profuse bleeding from her private part. She returned to her house from the place of occurrence and gave information to the informant and other persons and, thereafter, witnesses reached the place of occurrence i.e. Baswari, where they had noticed that Sony Kumari (P.W.9) was lying in unconscious state with profuse bleeding from her private part and she (Priti Kumari) has been examined as P.W.8. She has categorically stated that on the date of occurrence at about 2.00 P.M. she was cutting grass with Sony Kumari (P.W.9) and, thereafter, this appellant arrived and he persuaded them to proceed towards Baswari and he said that in Baswari there was bundle of cut-grass. While she along with Sony Kumari (P.W.9) reached in Baswari, firstly the appellant tried to commit rape after undressing her undergarment, but he did not succeed. Thereafter, he left her and started committing rape on Sony Kumari after undressing her. In course of such rape, Sony Kumari became unconscious. In the meanwhile, Priti Kumari left the place of occurrence and reached her house and gave information to parents and, thereafter, the informant and others reached the place of occurrence and found that Sony Kumari was lying in unconscious state and profuse bleeding



was coming out from her private part. This witness was though cross-examined, but could be extracted to draw an inference against the prosecution case.

11. P.W.9-Sony Kumari, who is victim, has also stated like P.W.8 Priti Kumari and she said that while she was being raped, she became unconscious. Besides this, she had also stated that how the accused had persuaded both victims to go to Baswari. She too was cross-examined, but nothing could be extracted from her to create doubt on the prosecution case.

12. Anita Devi (P.W.6) is the informant of the case and mother of victim Sony Kumari. She deposed that on the date of occurrence, her daughter with Priti Kumari (P.W.8) had gone for cutting grass and at 2.00 P.M. she was raped in Baswari by the appellant. This information was given by Priti Kumari and, thereafter, she along with others reached the place of occurrence and on the place of occurrence she found blood on the leaf of Pipal as well as on Bamboo leaves and her daughter Sony Kumari was found in unconscious state and from her private part, blood was coming out. She stated that Sony Kumari was firstly carried to her house and, thereafter, other number of villagers arrived and surrounded the house of the appellant. Thereafter, the police arrived and arrested the



appellant. She stated that Priti Kumari and Sony Kumari both were carried by the police and her statement was also recorded. Her fardbeyan was got recorded by the police. Thereafter, Sony Kumari and Priti Kumari both were sent to Sadar Hospital, Chapra for treatment. She in her cross-examination in paragraph-4, she categorically denied the suggestion as to whether there was any animosity with her family and accused family. Meaning thereby that prior to the occurrence, there was no animosity between the informant's side and accused side. In her cross-examination, she further stated that on under-garment as well as leaves of Pipal as well as bamboo, she noticed that there was blood. She further stated in her cross-examination that the police had seen the place of occurrence in presence of her father-in-law. She has also denied the suggestion that Sony Kumari, the victim had cut the wheat crops from the appellant's field.

13. P.W.7-Rameshwar Rai, grand-father of Sony Kumari, had deposed that on the date of occurrence, while he was at his door, Priti Kumari informed that she along with Sony Kumari had gone for cutting grass and they were intercepted by the appellant; she disclosed that blood was coming out from private part of Sony Kumari and she was



lying in unconscious condition in Baswari. Thereafter, this witness along with others went to the place of occurrence and saw that Sony Kumari was lying in unconscious position and from her private part blood was coming out. He also found blood on leaves of Bamboo and Pipal. In paragraph-2 of his evidence, he disclosed that Sony Kumari was firstly carried to her house and, thereafter, all the villagers went to the door of the appellant and surrounded his house and the police was also intimated and, thereafter, the police arrived and arrested the appellant. In paragraph-5 of his cross-examination, he clarified that he had not found blood stained soil and only blood stain was noticed on leaves. He further stated that the victims were treated in Sadar Hospital, Chapra.

14. P.W.1 Jalu Ram and P.W.3 Saroj Ram are witness to the seizure list relating to seizure of blood stained leaves of Bamboo and Pipal. Besides this, they stated that they heard regarding the occurrence and thereafter they participated in surrounding the house of the appellant. P.W.1 has identified his signature on the seizure list, which was marked as Ext.1 and P.W.3 has identified his signature on the seizure list, which was marked as Ext.1/1.



15. P.W.4-Sharda Kumari, who on the date of deposition was aged about 13 years, has stated that on the date of occurrence at about 1.00 P.M. she had seen two victims with the appellant. On the date of occurrence, they were taken to Bamboo orchard by the appellant. Manju Devi (P.W.5) is mother of victim Priti Kumari, who has stated that she had also gone to the place of occurrence i.e. Baswari and saw Sony Kumari was lying in unconscious state and blood was coming out from her private part. Both victims were got examined by a Medical Board consisting of Dr. Jayshree Prasad(P.W.11) and Dr. Neela Singh (P.W.12). P.W.11- Dr.Jayshree Prasad has proved the report regarding injury of both victims, which were marked as Exts.5 and 5/1. She also proved her signature as well as signature of Dr.Neela Singh on the said report. She has also identified her signature on the report as well as supplementary report, which were marked as Exts.6 and 6/1. She further proved signature of Dr. Neela Singh, which was marked as Ext.6/2. Similarly Dr. Neela Singh has proved supplementary report in respect of injury found on the person of Sony Kumari(P.W.9), which was marked as Ext.7. She has also proved supplementary report in respect of injury found on the person of Priti Kumari, which



was marked as Ext.7/1. Dr.Jayshree Prasad in her evidence has stated that on 05.02.2010 she was posted on emergency duty in Mahila Sadar Hospital, Chapra and on the same day at 10.40 A.M. she along with Dr.Neela Kumari (P.W.12) examined Sony Kumari and found following facts:

“(i) Breast not developed, auxiliary and pubic hair not appeared. There is no external injury on her body.

(ii) There is dried blood upon the genital organ. There is no hair in and around her private part. Bruising and laceration of external genitals with redness swelling and inflammation.

Hymen- lacerated having three radiate tear. The edges which are red, swollen and painful and bleed on touching.

There is laceration of faurchette and perineum.

Investigation:

Two vaginal swab taken and sent to Pathological Deptt, Sadar Hospital, Chapra. Advice x-ray of both, wrist and elbow and pelvic.

Opinion- Reserved for non-availability of Pathological and Radiological report till date.

She also received supplementary report of Sony Kumari D/O Chandrika Ram, which is as follows:



Radiological received on dated 17.02.10, which was done by Dr.S.K.Singh, Radiologist, Sadar Hospital, Chapra, which is as follows:

(i)X-ray AP view- ischium and Pelvic fused.

(ii) X-ray both wrist AP view epiphysis of digital end of ulna appeared but not fused .Pisiform not appeared.

(iii) X-ray both elbow AP view epiphysis of olecraron non appeared but not fused. Age 8 to 9 years.

Pathological report received on dated 18.02.10 which was done by Central diagnostic Refer Lab Chapra Sadar, shows spermatozoa not present. Opinion –on the account of above facts, rape has occurred. Age of the victim girl 8 to 9 years.”

On cross-examination, she (P.W.11) stated that private part of both victims was ruptured at three radius places. The victims was examined at 10.40 A.M. She further said “I cannot say total time of the treatment of victim in the hospital without seeing the bed head ticket”. She (P.W.11) was further examined on recall and stated as follows:

“On the same day at 11.30A.M. victim Preety Kumari D/O Mahesh Ram of vill- Sirsa Jalalpur P.S. Mashrakh, Distt-Saran was examined by medial board consisting herself and



Dr.Neela Singh, M/O Mahila Sadar Hospital, Chapra and found following:

Breast not developed, auxiliary and pubic hair not appeared. There is no external injury on her body.

Examination of private part:

There is no hair in and around the private part. There is laceration of external genital with redness swell and inflammation. Hymen intact.

Investigation- Two vaginal swab have been taken and sent for pathological Deptt., Sadar Hospital, Chapra. Advise- X-ray of both wrist and both elbow and pelvic AP view

Opinion- Reserved due to non-availability of Pathological and Radiological report till date.”

She also received supplementary report of Priti Kumari D/O Mahesh Ram-

Radiological report received on dated 17.02.2010, which was done by Dr.S.K.Singh, Radiologist, Sadar Hospital, Chapra, which is as follows:

(i)X-ray of Pelvic AP view ischium and Pelvic not fused.

(ii) X-ray of both wrist AP view digital end of ulna appeared but not fused.



(iii) X-ray both elbow AP view epiphysis olecranon non appeared. Age 7 to 8 years.

Pathological report received on dated 18.02.10 which was done by Central Diagnostic Refer Lab, Chapra Sadar, shows that spermatozoa not present. Opinion –In medical team (i) on the account of above facts possibility of rape cannot be denied. Age of victim-7 to 8 years.”

Almost in similar manner, Dr.Neela Singh has deposed that though prosecution had not proved regarding commission of alleged rape on Priti Kumari, but from the injury, which was found on the person of Priti Kumari, possibility of rape with Priti Kumari cannot be denied. This fact has come in the cross-examination of P.W.11. In paragraph-14, she has stated as follows:

“Possibility of rape with Priti Kumari would not be denied. Laceration on external genital on private part with redness swelling and inflammation was found on the private part of victim. No stretch was done on the private part of both victims. Spermatozoa was not found on the private part of Priti Kumari”

15. Almost in similar manner, Dr.Neela Singh has deposed and, as such, it is not necessary to reiterate the same.



Meaning thereby that injuries on the private part of both victims were sufficient to establish the case that at least Sony Kumari (P.W.9) was raped by the appellant and attempt was also made to commit rape on Priti Kumari (P.W.8).

16. P.W.2-Achay Lal Ram though was hearsay witness, but he was hearsay witness only on the point regarding commission of rape. In his evidence, he has stated that after hearing the fact that Sony Kumari was raped by the appellant and she was lying in unconscious state in Baswari, he also reached the place of occurrence and saw the victim in injured condition.

17. P.W.10-Dhirendra Kumar Sinha, who is the Investigating Officer of the case, has proved fardbeyan , which was marked as Ext.2 and formal F.I.R. was marked as Ext.3. The seizure list relating to seizure of bamboo leaves and Pipal leaf stained with blood was marked as Ext.4. Of course in the case, the place of occurrence was inspected on the next date, the reason for delayed inspection of place of occurrence has been explained in paragraph-6 of his cross-examination. P.W.10. has stated that on the date of occurrence i.e. 04.02.2010 a formal F.I.R. was drawn at 06.00 P.M. and immediately thereafter steps was taken to get the victims



examined and, as such, time was consumed in completing such formalities and, thereafter, in the next morning he visited the place of occurrence and prepared seizure list. This witness has also been cross-examined at length, but nothing could be extracted from his cross-examination to draw an inference against the prosecution case. This witness has stated that during investigation, he found the case true and after obtaining permission from the higher authority, he submitted chargesheet. This witness, of course, has also admitted that he had not sent seized articles for chemical examination.

18. On examination of evidence of aforesaid witnesses, we are of the considered opinion that since the prosecution had proved its case beyond all reasonable doubt, the learned trial Judge has rightly passed Judgment of conviction and sentence. So far as submission of Sri Ramakant Sharma, learned Senior Counsel for the appellant that in absence of medical examination of the appellant as well as in absence of any report regarding seized articles, the period of sentence may be considered leniently is concerned, the Court is of the opinion that in view of law laid down by the Hon'ble Apex Court, which has already been discussed in the preceding paragraphs, particularly the Judgment of the Hon'ble Supreme



Court in Balu's case (supra), considering the seriousness of the nature of charge i.e. commission of rape on minor girl, certainly in such cases lenient view cannot be taken and, as such, the submission of learned Senior Counsel for the appellant for reducing the period of sentence may also not be accepted and the same has to be rejected and accordingly rejected.

19. In view of facts and circumstances, we do not find any error in the impugned Judgment of conviction and sentence warranting any interference. The appeal stands dismissed.

(Rakesh Kumar, J)

(Mohit Kumar Shah, J)

nawalkrs/-

AFR/NAFR	A.F.R.
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