

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 461 OF 2024

Rashid @ Imran Chand Qureshi ...Appellant
Versus
The State of Maharashtra and Anr. ...Respondents

Mr. Advait Tamhankar i/b Shekhar Bhandary for the Appellant.
Mr. R.M. Pethe, APP for Respondent /State.
Mr. Hafeez Kotwala (appointed thru legal aid) for Respondent No.2.

CORAM : R.M. JOSHI, J.
DATE : 13th FEBRUARY, 2026

P.C. :

1. The Appellant/convict takes exception to the judgment and order dated 03.04.2024 passed in Special Case No.90 of 2019, whereby the Appellant came to be convicted for the offences punishable under Section 376, 377, 324 and 506 of IPC and sentenced to suffer maximum sentence of imprisonment of 12 years with fine, with default sentence.

2. On 23.08.2018, a report was lodged by victim in respect of an incident occurred in the intervening night of 22.08.2018 and 23.08.2018. It was informed to the police that the victim, a married woman with two children, resident of Dhavki Dongar, near dumping ground, Bhayendar, Thane, on that day, while she was returning home, accused Rashid met her on the way and asked her as to whether she is staying alone and her husband has gone to the native place. She answered in the affirmative. In the said night at around 01.00 a.m., while victim was sleeping, she heard noise of opening of door and found accused having entered the house. When she was about to raise

shouts, he gagged her mouth and assaulted her with wooden plank. He thereafter, forcibly committed sexual intercourse with her. Other acts done by the accused to her are specifically referred in the first information report. She immediately went to the concerned police station and was referred for medical examination. On the basis of the said information crime came to be registered vide CR. No.I-83/2018 with Uttan Sagari Police Station, District Thane.

3. Offence came to be investigated into. Accused was arrested. Investigating officer recorded statements of witnesses, conducted spot panchnama and included medical examination papers of the victim in the investigation papers. Seized muddemal was sent to CA. CA report was included therein. On conclusion of investigation, chargesheet came to be filed before the Competent Court. Charge was framed against the accused vide Exhibit 22. Since he abjured the charge, he was tried.

4. The prosecution examined following 7 witnesses. PW-1 Prosecutrix, PW-2 Rajendra Raghunath Raut, PW-3 Dipti Ravindra Chile, PW-4 Sanjay Shrinath Prajapati, PW-5 Dr. Ramesh Shankarrao Bhagat, PW-6 Dr. Zara Ansari, PW-7 Pravinkumar Sonabara Salunkhe.

5. The prosecution also placed reliance on first information report (Exhibit-33), Spot panchanama (Exhibit-38), Medical Examination Report (Exhibit-58), Arrest panchanama of the accused (Exhibit-63), CA Report (Exhibit 69) etc. Learned Trial Court found evidence laid by the prosecution to be sufficient to bring home guilt of the accused beyond reasonable doubt and hence, recorded conviction against him by impugned Judgment and Order.

6. Learned counsel for the Appellant submits that the oral evidence of the victim before the Trial Court does not inspire confidence and it is practically not possible that the victim who is grown up person

and married was subjected to forcible sexual intercourse. It is his further argument that the claim of the victim with regard to she being sexually abused is not supported by medical evidence on record. According to him, as per case of the prosecution, the examination of victim was done immediately and inspite of the same, no signs were found to hold that she was subjected to forcible sexual intercourse. Apart, from this it is his submission that the other evidence in the form of recovery of the clothes of the accused etc. is not supported by CA reports. Hence, it is argued that having regard to the nature of evidence laid before the Trial Court, the guilt of the accused has not been proved beyond shadow of reasonable doubt.

7. Learned APP supported impugned judgment and order of conviction. According to him, the victim immediately after the occurrence of the incident went to the concerned police station and lodged report in respect of the incident occurred. He drew attention of the Court to the medical examination report of the victim, which indicates that she sustained injuries caused to her by the accused in the incident in question. Apart from this, reference is made to the arrest panchnama of the accused (Exhibit-63), which is admitted by the defence, wherein abrasions and other injuries are found on the person of the accused, which are remained unexplained during the trial. It is his submission that in view of the fact that victim attempted to resist the said incident, injuries were caused on the person of the accused which is a incriminating circumstance. It is submitted that the evidence of the victim inspires confidence and no reason is brought on record to show as to the purpose for which she has falsely implicated the accused in this crime.

8. The learned Counsel for the Respondent No.2/victim also has

supported conviction and made similar submissions and support impugned order. He placed reliance on following Judgments.

- a) *State of Himachal Pradesh v/s. Manga Singh [AIR OnLine 2018 SC 1019]*
- b) *Lok Mal alias Loku v/s. State of Uttar Pradesh [AIR 2025 Supreme Court 1437]*
- c) *Sanjay alias Sanju v/s. State [2025 Cri. L.J. 3125]*
- d) *State of Karnataka v/s. S. Raju [AIR OnLine 2019 Kar 1946]*
- e) *Pool Singh v/s. State of Madhya Pradesh [AIR OnLine 2021 SC 1112]*
- f) *Prem alias Ballu v/s. State of Haryana [2003 CRI. L.J. 962]*
- g) *State of H.P v/s. Amrish Kumar [2009 CRI. L.J. 2126]*
- h) *Panibhusan Behera & Ors. v/s. State of Orissa [1995 CRI. L.J. 1561]*

9. The law on the point of appreciation of evidence of a woman who is a victim of sexual assault is fairly settled to say that if the evidence of the victim is consistent and unblemished, so also it inspires confidence, the same can become sole basis of conviction without seeking any further corroboration to her version. Keeping in mind the said principle, the evidence laid before the Trial Court is evaluated.

10. Perusal of the record indicates that the first information report in respect of the crime came to be lodged immediately. After the occurrence of the incident the victim went to the concerned police station and lodged report immediately. She was also referred to the Government hospital at Kandivali for her medical examination. Thus, this is the case wherein there is absolutely no delay in lodging of the

report.

11. The victim in her substantive evidence before the Trial Court has specifically narrated the occurrence of the incident including the manner in which the accused entered the house and assaulted her with wooden plank and ultimately committed forcible sexual intercourse with her. She further deposed about going to the police station immediately after the occurrence of the incident and lodging report of the same. The evidence of victim gets support from the testimony of Dr. Bhagat PW-5, who clinically examined her at about 08.30 a.m. He found bleeding injuries on the person of the victim. Swelling on temporal region was also noted. A suggestion was made to the Medical Officer that causing of such injuries while fall on a slope is denied by the Medical Officer. The victim was thereafter examined by a Gynecologist PW-6 Dr. Ansari. On the basis of medical examination, she opined that the possibility of the forcible sexual intercourse is not ruled out.

12. The oral evidence of the victim thus get due support from the medical evidence on record. Though it is sought to be argued on behalf of the counsel for the Appellant that herein this case no injuries are found on the genitals of the victim, but in view of the fact that victim was a married woman with two children, it was not necessary that such injuries could be mandatorily seen. Apart from this, the defence was unable to bring anything on record to indicate that there was any concrete reason for the victim to falsely implicate the Appellant accused in this crime.

13. Apart from the fact that the victim's evidence is consistent , free from doubt and the same is supported by the medical evidence, there is admitted evidence by defence in the form of arrest panchanama

of the accused. The arrest panchanama of the accused indicates that there were injuries such as abrasion on his left wrist, so also other injuries were found on the other part of the body. Since this panchanama Exhibit-63 is admitted by the defence, the accused does not dispute causing of the injuries to him. In such circumstances, it was absolutely essential for the accused to explain the reason for the occurrence of those injuries. Accused gives no reason much less possible one for the same.

14. Thus, there is evidence in the form of injury on the person of the accused which indicates that there was an attempt to resist the incident of rape and which has resulted into causing of injuries on the person of the accused. This Court finds reason to believe that being injured by accused, victim could not succeed in avoiding incident of sexual assault on her. Once the evidence of the victim is found free from doubt and moreover it gets support from medical evidence as well as other evidence on their part, there remains no doubt with regard to the fact that the prosecution has proved the guilt of the accused beyond shadow of reasonable doubt.

15. This Court therefore, finds no reason or justification to cause interference in the impugned Judgment and Order of convicting of the accused for the offences proved against him.

16. At this stage Learned counsel for the Appellant submits that the Appellant has already undergone sentence of 7 years, 8 months and 19 days including period of remission and considering the fact that his conduct in the jail was satisfactory, the Appellant be sentenced to suffer imprisonment for the period already undergone.

17. This contention is opposed by the learned APP with the submission that the minimum sentence prescribed for the offence is 10

years and consequently, it is not possible for the Court to reduce the said sentence below 10 years. Having regard to the relevant provisions of IPC and the sentence minimum prescribed for the offence proved, the Appellant/accused cannot be permitted to be set free unless he undergoes period of at least 10 years.

18. In the result, following order.

- (i) The Appeal stands partially allowed.
- (ii) The order of conviction of the accused is maintained.
- (iii) The accused is sentenced to suffer imprisonment for a period of 10 years with fine as per the order of the Trial Court.
- (iv) The appeal is disposed of in above terms.

(R.M. JOSHI, J.)