

**State Vs. Deepak**

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**SooperKanoon Citation :** [sooperkanoon.com/1167111](http://sooperkanoon.com/1167111)

**Court :** Delhi

**Decided On :** Nov-05-2014

**Judge :** Pradeep Nandrajog

**Appellant :** State

**Respondent :** Deepak

**Judgement :**

§~5 \* IN THE HIGH COURT OF DELHI AT NEW DELHI + CRL.L.P. 271/2014  
STATE Represented by: ..... Petitioner Ms.Aashaa Tiwari, APP with Insp.Vivek  
Tyagi, PS Geeta Colony. versus DEEPAK Represented by: ..... Respondent  
Respondent in person. CORAM: HON'BLE MR. JUSTICE PRADEEP  
NANDRAJOG HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

0511.2014 % Crl.M.A. 5997/2014 Exemption allowed subject to just exceptions.  
Crl.M.A. 5996/2014 For the reasons stated in the application the delay of 26 days  
in filing the appeal is condoned. CRL.L.P. 271/2014 1. State seeks leave to appeal  
against the impugned judgment dated November 29, 2013 acquitting the  
respondent of the charge under Section 363/376 IPC. The FIR was registered on  
the complaint of PW-1 the father of the prosecutrix who found her missing at about  
8.30 AM on July 29, 2012 on being informed by his son Devender. The prosecutrix  
had left a letter at home mentioning that she was going to commit suicide. The  
complainant along with his son went to Yamuna river to trace his daughter

motorcycle, however could not find her. On reaching home he found that the respondent was also not present at home. Later the two were found together. In view of this evidence on record, it is apparent that the prosecutrix went to the respondent of her own free will and tried to mislead her family so that she could not be found out. The conclusion of the learned Trial Court that the prosecutrix was aged 14 15 years at the time of alleged incident cannot be faulted. As neither any enticement nor coercion is proved, the learned Trial Court rightly acquitted the respondent for the charge under Section 363 IPC.

2. The issue that arises further is whether the finding of the learned Trial Court that the charge of rape against the respondent was not established beyond reasonable doubt is a plausible finding or not. It is wellsettled that fracture of hymen is not a sine-qua-non for rape. A slight penetration itself is sufficient to constitute the offence of rape which may not even leave any injury either on Labia minora or Labia majora and may not even cause injury to the hymen. In the MLC Ex.PW-6/A the prosecutrix stated to the doctor that there was no physical or sexual assault on her by anybody. Further the version of the prosecutrix was that she was continuously raped. This version is contrary to her MLC which shows no injury on the private parts and hymen not torn. The allegation is not of simple penetration. Thus, in view of the statement of the prosecutrix to the doctor which finds support from the MLC the learned Trial Court rightly granted the benefit of doubt to the respondents.

3. On a perusal of the evidence on record we cannot come to the conclusion that the view taken by the learned Trial Court was not a plausible view or that the same was perverse warranting interference.

4. Petition is accordingly dismissed. PRADEEP NANDRAJOG, J.

**MUKTA GUPTA, J.**

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