

Ram Lal vs.state

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Court : Delhi

Decided On : Oct-07-2016

Appellant : Ram Lal

Respondent : State

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI RESERVED ON :

6. h OCTOBER, 2016 DECIDED ON :

7. h OCTOBER, 2016 + CRL.REV.P. 439/2016, CRL.M.B.1195/2016 & CRL.M.A.No.9919/2016 RAM LAL

... Petitioner

STATE Through : Ms.Jyoti Gupta, Advocate. versus Through : Mr.Kamal K.Ghei, APP. Respondent CORAM: HON'BLE MR. JUSTICE S.P.GARG S.P.GARG, J.

1. Present revision petition has been preferred by the petitioner to challenge the legality and correctness of a judgment dated 04.06.2016 of learned Addl. Sessions Judge in Crl.A.No.03/2015 arising out of FIR No.11/2008 PS Ashok Nagar whereby findings of learned Metropolitan Magistrate regarding conviction under Sections 342/354/363 IPC were endorsed.

2. Briefly stated, the prosecution case as reflected in the charge- sheet was that on 10.01.2008 at 11.00 a.m. at C-Block, Masjid Wali Gali, New Ashok Nagar,

Delhi, the petitioner kidnapped the prosecutrix X (changed name) and outraged her modesty in his house after wrongfully CrI.Rev.P.439/2016 Page 1 of 4 confining her. Incident was reported to the police vide Daily Diary (DD) No.13A (Ex.PW-1/B) at 10.44 a.m. at PS New Ashok Nagar. The Investigating Officer after recording victims statement lodged First Information Report. X was medically examined. The petitioner was arrested. Upon completion of investigation, a charge-sheet was filed. To establish its case, the prosecution examined five witnesses. In 313 Cr.P.C. statement, the petitioner denied his involvement in the crime and pleaded false implication. He examined DW-1 (Munna Lal) in defence. The trial resulted in conviction as aforesaid. The Appellate Court while maintaining conviction, modified the sentence from RI for one year to SI for six months.

3. The occurrence took place on 10.01.2008 at about 11.00 a.m. and its intimation was conveyed to the police without any delay vide DD No.13A (Ex.PW-1/B) at 10.44 a.m. It was recorded therein that an individual had outraged the modesty of a child aged around seven years. In her statement (Ex.PW-2/A), X gave graphic detail and named the petitioner to have outraged her modesty. In her Court statement, she proved the version given to the police without any major variation. She deposed that on that day, the accused, who used to sell peanuts and gajjak on a rehri, took her to his house when she was on her way to her residence. The accused asked her to put off her clothes to see if she was a boy or a girl; he kissed on her cheek and asked her to hold his penis in her hands. In the cross-examination, she disclosed that at that time, she used to study in MC Primary School, New Ashok Nagar. She denied that the statement given by her was at her mothers behest. She denied if her mother used to purchase eatables like gajjak, peanuts on credit from the petitioner and in order to avoid its payment, falsely implicated him in this case. CrI.Rev.P.439/2016 Page 2 of 4 4. Scanning the testimony of the prosecutrix, it reveals that despite detailed cross-examination nothing material could be elicited to disbelieve the version narrated by the child witness aged around seven years. At the time of her examination, she was aged around twelve years but was able to recollect the entire occurrence vividly. She assigned a specific and definite role to the accused in the crime and identified him to be the perpetrator of the crime. No ulterior motive was assigned to the child for making a false statement against the individual aged around sixty years and with

whom she had no prior ill-will or animosity. The defence that Xs mother had purchased certain eatables on credit and was unable to return the amount and was falsely implicated to avoid payment is devoid of merits. For such a trivial issue, mother is not expected to put the honour of her tiny child at stake. The petitioner also did not produce on record any evidence to show if any particular item was purchased by victims mother, and if so, when and for what price. No documentary evidence has emerged on record in this regard. The petitioner who himself was a petty vendor is not expected to sell articles on huge credit.

5. PW-5 (Amina Khatoon @ Amina Begum) - victims mother has corroborated her version in its entirety. The Courts below have given cogent findings of guilt which are based upon fair appreciation of the evidence and warrant no intervention.

6. The Trial Court had awarded RI for one year and it was modified to six months by the Appellate Court. Since the petitioner was aged around sixty years and was mature enough to understand the consequences of his act, he deserves no further leniency. The victim was aged around seven years akin to his daughter. Crl.Rev.P.439/2016 Page 3 of 4 7. The revision petition lacks in merits and is dismissed. Pending applications also stand disposed of.

ORDER

9. Trial Court record be sent back forthwith with the copy of the A copy of the order be sent to the Superintendent Jail for information. OCTOBER07 2016 / tr (S.P.GARG) JUDGE Crl.Rev.P.439/2016 Page 4 of 4

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