

State Vs. H.D. Beeregowda

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Court : Karnataka

Decided On : Jul-15-2003

Reported in : 2003CriLJ4762

Judge : M.F. Saldanha and ;M.S. Rajendra Prasad, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 376

Appeal No. : Crl. A. No. 855 of 2003

Appellant : State

Respondent : H.D. Beeregowda

Advocate for Pet/Ap. : G. Bhavani Singh, Addl. SPP

Disposition : Appeal dismissed

Judgement :

M.F. Saldanha, J.

1. We have heard the learned Addl. SPP on I. A. I. as also on merits. As far as I. A. I. is concerned for the reasons set out the delay is condoned. I. A. I. is allowed.
2. Coming to the merits of the case, obviously the State has filed an appeal against acquittal because the allegation is to the effect that the complainant Shanthamma was a 19 years old girl, that she had been raped and that she had

also been assaulted. The trial Court has acquitted the accused and having regard to the nature of the charge, the order has been challenged through the present appeal.

3. We need to again reiterate the fact that undoubtedly, attacks on the dignity of females of whatever age is something of utmost seriousness which the courts will visit with exemplary punishments in the social interest. It is also necessary for us to reiterate the fact that where the attack is on the modesty of the female or where it is a sexual attack that the law itself prescribes for deterrent punishment. This being the background, the courts also need to be cautious while recording a conviction because there are numerous instances wherein the complainants themselves are motivated. We do not need to go far because the learned Counsel who represents the appellants in this case submitted that PW. 1 the victim girl has very clearly deposed to the effect that the accused had forcibly committed rape on her. The incident has taken place in the day time. According to the victim she was not a consenting party and if this was the position, in the absence of the accused having terrorised or threat ended the victim either by means of use of deadly weapons or in some other manner, one would reasonably assume that it would not have been easy or for that matter feasible for the accused to have committed the act of rape with the victim fighting back. Even assuming this had happened there would have been telltale marks such as torn clothes and injuries both of which are totally absent in the present case. We also have the evidence of one of the witnesses who states that when he passed-by the door was locked from inside. That there was total silence and that he saw the accused leaving the place thereafter. All of this indicates that it is more likely, that even if some incident has taken place that it was by consent and not by force. If that was the position the question of any offence does not arise.

4. The law prescribes extremely heavy sentence in cases of the present type and the courts must necessarily have to therefore follow a cautious approach before recording a conviction. Forensic evidence and the medical evidence both of which are independent and reliable are crucial in cases of this type. In the present instance apart from the bare word of the complainant both the aforesaid heads of evidence are totally and completely absent. Though the learned Counsel

submitted that there was some delay because the police did not act diligently and responsibly and that the complainant had to go to the SP, what we need to point out is that all of this has happened on the same day and the evidence such as injuries, torn garments, stains on the clothes etc. could have been available despite the alleged misconduct or lethargy on the part of the police in the first instance. We have very carefully assessed all these aspects of the case and we do find that the quality of evidence and the degree of proof as also the corroborative and supportive evidence that are very necessary to sustain a conviction in this class of cases is totally and completely absent or are wanting. It is for this reason that in our considered view no interference is warranted with the order of acquittal. The appeal accordingly fails on merits and stands dismissed.

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