

imrat and ors. Vs. Emperor

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Court : Allahabad

Decided On : Aug-15-1929

Reported in : AIR1929All916

Appellant : imrat and ors.

Respondent : Emperor

Judgement :

Sen, J.

1. Surat, Jhabbu, Mukanda and Ghasi have been convicted by the learned Sessions Judge of Bijnor under Section 366-A, I.P.C., or in the alternative under Section 368 of the aforesaid Code and sentenced to two and half years' rigorous imprisonment each. Sarupa has been convicted tinder Section 366, I.P.C., and sentenced to three years' rigorous imprisonment.

2. Of the persons convicted, two are chauhans by caste and the three are gadarias. The charge levelled against them is that they abducted one Mt. Herdei, a minor girl, under the age of 16 years from her father's house in mauza Noorullahpur and after a progress through several villages namely Shamspur, Sadaphal, Kaural they arrived in mauza Khardauni in the district of Meerut and gave the girl in marriage to one Durga.

3. Mt. Herdei is a married girl. She is about 14 years old and her gauna ceremony has not been performed. The accused persons represented and induced the girl to represent that she was a chauhan girl. The prime mover in the drama was the accused Sarupa.

4. Upon the evidence produced in the case, there can be no manner of doubt as regards the guilt of the accused. Their conviction therefore must stand.

5. The learned Sessions Judge of Bijnor has delivered a very lengthy judgment and one of the principal causes of prolixity is repetition of facts and importation of irrelevant matter into the judgment. A first information report cannot be used as primary evidence of any fact in dispute but may be treated as corroborative evidence of facts which have to be established in the case.

6. There was no warrant for the learned Sessions Judge for holding upon the strength of certain statements contained in the first report that there was illicit connexion between Mt. Herdei and Sarupa.

7. I am, however, in general accord with the appraisal of evidence made by the learned Sessions Judge as also with the conclusions arrived at by him.

8. Cases under Section 366, I.P.C., and cognate sections of the Penal Code are coming up before the Courts of law in large number. It may be fairly presumed that there is a large number of cases which does not attract the notice of the authorities; and crime is allowed to go free footed without any let or hindrance. A great number of these offences are committed in the western districts of the United Provinces and it is no coincidence that the girls kidnapped or abducted are sent away to the Punjab. This opens out a page not of legal ethics but of social statics. The census figures show that there is a considerable disparity in the proportion of males to females among certain classes and castes in the Punjab. I am not called on to make any pronouncement upon the means which may or ought to be devised to eradicate this evil. The thing that I am certain about is that where the offenders have been tracked, the sentence passed upon them ought to be severe.

9. The sentence passed in the present case does not err on the side of severity. I maintain the conviction and dismiss the appeal.

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