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Ranvir Singh Vs. State of M.P.

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Court : Supreme Court of India

Decided On : Nov-01-1996

Reported in : 1996VIIIAD(SC)197; 1997(1)ALD(Cri)191; 1997(1)ALT(Cri)112; 1997(1)BLJR202; 1996(4)Crimes163(SC); JT1996(10)SC19; RLW1997(1)SC19; 1996(8)SCALE19; (1996)11SCC595

Judge : G.N. Ray and; B.L. Hansaria, JJ.

Acts : Indian Penal Code (IPC) - Sections 366 and 376

Appeal No. : Criminal Appeal No. 369 of 1987

Appellant : Ranvir Singh

Respondent : State of M.P.

Judgement :

G.N. Ray, J.

1. This appeal is directed against judgment dated 11.6.1986 passed by the Indore Bench of the Madhya Pradesh High Court in Criminal Appeal No. 15 of 1983 arising out of judgment dated 1.11.1983 passed by the learned Fourth Additional Sessions Judge, Ujjain Division in Sessions Trial No. 154 of 1982. By the impugned judgment, the High Court has upheld the conviction of the appellant under Section 366 and 376 of the Indian Penal code and consequential sentence

of rigorous imprisonment for three years on each count with a direction that both the sentences would run concurrently as ordered by the learned Additional Sessions Judge.

2. The appellant was tried along with another accused Jabbar for offences under Sections 363, 366A or in the alternative under Section 366 IPC. The appellant was also charged for offence under Section 376 IPC and the co-accused was charged under Section 376 read with Section 109 IPC. It may be stated here that the co-accused was acquitted by the learned Additional Sessions Judge of all the charges. The accused appellant Ranvir Singh was a driver of a truck. The prosecution case in short is that on 4.6.1982, the prosecutrix Annubai aged below 18 years and then living under the guardianship of her father Dayaram at village Bilbank had gone to village Satrunda along with Kamla and Anand; of the said village Bilbank. At Satrunda, all of them were waiting for a transport for going to Khachrand. At about 10 to 11 A.M. a truck No. 6313 MPU came there being driven by the appellant Ranvir Singh. On the assurance of Ranvir Singh that the truck was going to khachrand all the three ladies sat on the front side of the truck and it started moving. About a kilometer away from village Runija towards west, the accused Ranvir stopped the truck and told that the engine had become hot and asked the ladies to take water. The prosecutrix Annubai being unwell and also not being thirsty then, did not get down but the other ladies got down from the truck and proceeded towards the well. Initially, Ranvir and the helper in the truck also got down but within a few minutes Ranvir came back and inside the truck committed rape on Annubai. Annubai told about such incident of raping to the other two ladies when they came back but the place being lonely, they could not do anything and decided to take up the matter at Runija. The truck thereafter proceeded and stopped near Railway Station Runija. Kamla and Anadi got down from the truck and when the prosecutrix Annubai tried to get down, she was pushed back by Ranvir and the truck started moving. Kamla and Anandi being terrified informed the matter to the Station Master of Runija Railway Station. The Station Master telephoned to the police station Badnagar. Annubai was found inside the driver's cabin in the truck. The accused persons were taken to police custody and the truck was seized. Annubai lodged a report in the police station house Barnagar. The police Barnagar handed over the case to the police station

Bhatpanchala. The police of the said Bhatpanchala. P.S. registered the offence and seized the ghagra of the prosecutrix and the underwear of Ranvir Singh which he was wearing then.

3. Both the prosecutrix and the accused Ranvir were medically examined. The seized clothes of the prosecutrix and Ranvir were sent for chemical examination and they were found to be stained with semen and spermatozoa. The accused denied the guilt. According to accused No. 2 Jabbar, he had no knowledge of rape and he was sitting on the dala of the truck. Annubai (PW 4) gave deposition in support of the allegation of being raped by the accused Ranvir. The age of the prosecutrix was determined with the help of ossification test. Dr. Vikas Choudhry, Asst. Surgeon, Civil Hospital of Ujjain after examining X-Ray report of the prosecutrix gave opinion that the age of Annubai was between 17 to (sic) 19 years. Annubai stated that her age was about 16 years. Considering the said evidences, the learned Additional Sessions Judge held that the age of the prosecutrix was below 18 years and as such the question of her being under the custody of her father Dayaram and her abduction from the lawful guardianship of her father did not arise. PW 3 Dr. Rajmal Jain had examined the accused on 5.6.1982 on the requisition Ext.P-3A and Dr. Jain's report is Ext. P-3. Dr. Jain found Ranvir Singh capable of performing sexual intercourse. P.W. 14 Ramchandra Misra. A.S.I. Badnagar has deposed that on the basis of information received from P.W. 5 Station Master Runija Railway Station which was recorded in the Rozhamcha (Ext. P-10) of the police station he apprehended the said truck and arrested the accused and also recovered the prosecutrix from inside the driver's cabin of the truck. PW 5 has deposed that being told by the two ladies, he informed the police. A.S.I. Ramchandra Mishra has also deposed that when by waiving his hand, he signalled the truck to stop, the truck did not stop. But because there was a Toll Tax barrier about 15 paces ahead, the truck had to stop there. Sri Ramchandra Misra has also deposed that accused Ranvir was then driving the truck and on search of the truck, the prosecutrix was found underneath the sleeping coach in driver's cabin. PW 4 Annubai has corroborated PW 14 Ramchandra Mishra as to the place from where the police had found her inside the truck. PW 9 Kamla has supported the prosecution case that on the assurance of Ranvir that the truck was going to Khachrand all the three ladies got into the

truck and after some time the truck stopped and they were told by Ranvir that the engine had become not. As Annubai was not feeling thirsty and was not also feeling well, she had stayed back but all others including the driver got down. Thereafter, the driver came back to the truck. When Kamla and Anandi came back, Annubai told them that Ranvir had raped her in the driver's seat and they decided to take up the matter at Runija. She has also deposed that when the truck stopped near Runija Railway Station, she and Anandi had got down but the prosecutrix was prevented by the accused from getting down and the truck move away. She then went to the station master of Runija Railway Station and sought his help.

4. The learned Additional Sessions Judge after considering the evidences adduced in thecase and also considering the fact that the prosecutrix was found below the driver's seatin the truck when the same was intercepted by the police and also considering the fact thatboth on the 'ghagra' of the prosecutrix and on the underwear of Ranvir Singh semen and spermatozoa had been found on chemical examination, accepted the prosecution case that the accused had forcibly taken the prosecutrix in the truck being driven by him and he had also committed rape on the prosecutrix. Accordingly, the said order ofconviction and sentence for the offence under Section 363 and 376 IPC waspassed by the learned Additional Sessions Judge. The learned Additional Sessions Judge, did not accept the case of the accused Ranvir that the prosecutrix was a woman of easy virtue and she on her own accord wanted to go to Ujjain and as such did not get down at Runija and also hid herself beneath the driver's seat so as to avoid detection by the police and thus prevented from going to Ujjain and by her own consent she had allowed the accused to have sexual intercourse with her. As aforesaid, the High Court has also upheld the conviction and sentence passed against the accused Ranvir.

5. Mr. Bimal Dave, learned Counsel appearing for the accused appellant, hassubmitted that the age of the prosecutrix was found by the court as above 16 years at the time of incident. It has also come out in the evidence that the prosecutrix intended to go to Ujjain in the said truck. It is also an admitted position that the prosecutrix and her two companions voluntarily got into the truck for taking a lift. It has also come out in evidence that when the truck had to be stopped as

the engine became very not, every one in the truck got down except the prosecutrix and she, on her own will, stayed back and remained inside the driver's cabin. The prosecutrix did not suffer any injury on her person even scratches and bruises which were reasonably expected if one was subjected to rape against her will by the accused Ranvir. It has also come out in the evidences that the prosecutrix was a woman of easy virtue. It is, therefore, quite likely than in order to induce Ranvir to give her a free lift upto Ujjain, she voluntarily agreed to have sexual intercourse with the accused. Accordingly, the appellant was not liable to be convicted for either of the said offences, namely, under Section 366 and 376 IPC. The appeal should, therefore, be allowed by setting aside the conviction and sentence passed.

6. After giving our careful consideration to the facts and circumstances of the case and the submissions made by Mr. Dave. We are unable to accept the contentions of Mr. Dave. It has been clearly established that the prosecutrix and her two companions Kamla and Anandi got inside driver's cabin when they sought a lift upto Khachrand in the truck driven by the accused Ranvir after being assured by the said accused that the truck was going to Khachrand. It has also been established that when accused stopped the truck by stating that the engine became hot, excepting prosecutrix every one got down. After some time when Kamla and Anandi after taking water from a well came back, they found the prosecutrix and the accused in the truck. Immediately, the prosecutrix complained to Kamla and Anadi that she was raped by Ranvir. As the place was lonely, out of fear, the prosecutrix and two other ladies decided to take the matter after reaching Runija. It has been also clearly established by the deposition of Kamla that although Kamla and Anandi could get down near Runija Railway Station, Ranvir drove away the truck with prosecutrix. Immediately Kamla sought help of the station master at Runija who had telephoned to the police. It has also come out in the evidence that when police wanted to stop the truck being driven by Ranvir, Ranvir initially did not stop at the signal of the police officer but had to stop little ahead because of barrier for collecting toll tax. The prosecutrix was found by the police inside the driver's cabin under the driver's seat. Her ghagra and the underwear of Ranvir were seized by the police and on chemical examination semen and spermatozoa were found on both the said garments. Even if the

prosecutrix was a woman of easy virtue, she could not be raped by the accused. If she had voluntarily agreed to have sexual intercourse with the accused, she would not have complained immediately when Kamla and Anandi came back. The police when signalled the truck did not see the prosecutrix seating in the driver's cabin. In case of voluntarily accompanying the accused for a lift upto Ujjain she was expected to be seated comfortably in the truck and not to be found out beneath the driver 's seat.

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