

Ganga Bishan Vs. State

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Court : Delhi

Decided On : Oct-30-1985

Reported in : 1986(1)Crimes2; 1986(10)DRJ94

Judge : G.R. Luthra, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 34, 363, 366 and 376; [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 164

Appeal No. : Criminal Miscellaneous (Main) Appeal Nos. 1182 and 1183 of 1985

Appellant : Ganga Bishan

Respondent : State

Advocate for Pet/Ap. : U.S. Chaudhary and; R.P. Lao, Advs

Judgement :

G.R. Luthra, J.

(1) This disposes of two petitions-one of Ganga Bishan and the other of Om Parkash, which are Criminal Misc. (Main) 1182 of 1985 and Criminal Misc. (Main) 1183 of 1985 respectively. These petitions arise out of the same occurrence and, therefore, they are being dealt with together.

- (2) The accusation against both the petitioners is that they had committed offences punishable under sections 366, 363, 376 read with section 34 IPC.
- (3) The version of the prosecution briefly is as follows. Anita aged about 17 years is daughter of one Roshan Lal and she was residing with her father at 5/99, Trilokpuri, Delhi. On 7th September 1985 Maya Ram who, according to the prosecution, is one of the main culprits made Roshan Lal totally drunk and took away Anita along with him. On the way he handed over the girl to Ganga Bishan with the direction that she should be taken away to jhuggis. Accordingly, Ganga Bishan took her away in a three-wheeler scooter. It may be mentioned that Ganga Bishan is an employee of Maya Ram.
- (4) On the night between 7th and 8th September 1985 Anita was raped by Maya Ram. On the morning of 8th September 1985 Maya Ram told Ganga Bishan to take Anita to Agra where sister of the former was residing. Accordingly, she was taken by Ganga Bishan to Agra. However, the sister of Maya Ram refused to allow entry of Anita in the house. Then Ganga Bishan took her to his village known as Mata Ka Prasad Pura in district Morena, Madhya Pradesh, where she was kept up to 15th September 1985.
- (5) On the night between 13th and 14th September 1985 Ganga Bishan raped her. On 14th September 1985 Om Parkash reached there. It may be mentioned that Om Parkash is real brother of Maya Ram. Then Om Parkash took Anita to village Umreta district Agra where she was raped by the former on the night between 14th and 15th September 1985.
- (6) Recovery of Anita took place on 16th September 1985 at Nizamuddin Railway Station, when she was in the custody of Ganga Bishan and Om Parkash, the present petitioners. The allegation of the prosecution is that all along the girl Anita was kept under threats of injury by knife and it was forcibly that she was taken from place to place, as already mentioned.
- (7) On 16th September 1985 itself Anita was produced before a magistrate who thought that she was not in a fit state to make a statement and adjourned the matter to 24th September 1985. Her statement was recorded under section 164

Cr. P.C. on 24th September 1985 and the aforesaid facts were revealed from her statement.

(8) According to the school certificate, which the prosecution has been able to procure, her date of birth is 10th March 1968. According to the radiologist she was near about 18 years. However, the age is not very material at this stage because the allegations of prosecution are that she was subjected to forcible sexual intercourse, by the petitioners and Maya Ram, as mentioned already.

(9) Learned counsel for the petitioner urges that the version of the prosecution is not probable, that Anita could not be taken forcibly from place to place and subjected to rape and that it was after long period of 8 days that the statement of Anita was recorded which made the case of the prosecution doubtful.

(10) However, all these matters are to be gone into at the trial. Without prejudice to the decision of the case on merits at the trial, at this stage I am not convinced by the arguments of the learned counsel for the petitioner. The case is obviously of very serious nature and shows high handedness with a girl of a little more than 17 years. The rape is alleged to have been committed by three persons on different nights. The maximum imprisonment provided in such cases is of life.

(11) Under these circumstances I find no justification for the grant of bail to any one of the petitioners. The learned Addl. Sessions Judge had rightly declined to grant bail to any of them.

(12) Both the petitions (Crl. Misc. (M) 1182 and 1183 of 1985) are dismissed.

(13) Criminal Misc.(Main) 1182 of 1985 and Criminal Misc. (Main) 1183 of 1985 stand disposed of.