

Panna Lal Vs. State

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Court : Delhi

Decided On : May-04-1994

Reported in : 1994IIAD(Delhi)557; 54(1994)DLT426; 1994(29)DRJ389

Judge : Jaspal Singh, J.

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

Appeal No. : Criminal Appeal No. 57 of 1977

Appellant : Panna Lal

Respondent : State

Advocate for Pet/Ap. : S.R.Yadav and; Mukta Gupta, Advs

Judgement :

Jaspal Singh, J.

(1) Panna Lal is the appellant. He has been convicted and sentenced under sections 363, 366 and 376 of the Indian Penal Code. The prosecutrix is Pushpa (PW6). This is how she and her father (Public Witness 7) unfold the sordid drama of kidnapping and violation of her body at the hands of the appellant and her subsequent recovery.

(2) Pushpa used to live in a quarter in Lodi Road Along with her parents. She was friendly to one Bhagwati and since said Bhagwati was married to the appellant, she came to know him also. On May 19, 1973 at about 9 Pm while she was sitting Along with her younger brother and Panna Lal, she was invited by Panna Lal to see a movie. She refused. This was followed by an offer, again from his side, to accompany him and his wife to India Gate. She agreed. They remained at India Gate for about 5 minutes. Thereafter she was taken to his quarter at Sewa Nagar and kept there for the night despite her protest. That night saw Panna Lal committing rape on her person while his wife slept costly on the roof. Next day he took her to Vasant Vihar and confined her into a room belonging to one Kallu.

(3) While Pushpa was undergoing that traumatic experience, her hapless father Sukh Dev (Public Witness 7) was away to his native village. When he returned on May 20, he was informed that Pushpa was missing since May 19. He searched for her. Since he met with no success he lodged a report with the police on May 24. It was on May 25 that she was recovered from the room of Kallu where she was found sitting with the appellant and his wife Bhagwati.

(4) Mercifully the learned counsel for the appellant was quite brief. He wanted me to throw out the prosecution version on two grounds. His first contention was that the version of rape was highly improbable as at the time of alleged rape, appellant's wife was admittedly sleeping nearby. Secondly, it was argued that Pushpa appeared to be a consenting party.

(5) Undoubtedly Pushpa has deposed that when she was subjected to rape at 2 A.M. appellant's wife was also sleeping on the same roof. However, I do wonder how this makes the story improbable. Unbridled sex blinds a man. When wild, it is a horse known not to the subjugation of reins. The appellant, however, was careful. He first chose an unearthly hour when sleep is usually deep and long. Secondly, he took care to gag victim's mouth. That she was violated finds support from the medical evidence. There was slight bleeding at introit us with vulval tear. The human could accommodate two fingers. Significantly human semen was detected on the Salwar and underwear of the victim and so also on the underwear of the appellant (Ex.PW15/C and Public Witness 15/D). It also stands proved not

only from her statement but even from the statement of her younger brother RajKumar (Public Witness 11) that she was taken away by the appellant and his wife on the night of May 19. That she was recovered from their custody also stands proved from her own statement and the statements of her father SukhDev (Public Witness 7) and Ram Charan (Public Witness 12). All this lends support and credibility to her statement.

(6) Consent, even if it be there, is of no consequence. The Radiologist Dr.O.P.Garg(PW 2) has placed the age of Pushpa as above 9 years and below 15 years(PW2/A). According to her school record she was born on July 15, 1959 (Public Witness 5A) while as per Register of Births maintained by the New Delhi Municipal Committee a female child was born to Sukh Dev on January 13, 1960 (Public Witness 4/A). Thus the evidence on the record clearly proves that Pushpa was much below the age of 16 years on the day she suffered the trauma of rape. The defense of consent thereforee pales into insignificance.

(7) No other point was urged before me.

(8) The appeal has no merit. It is dismissed.