

Shakuntala Devi Vs. Suneet Kumar

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Court : Delhi

Decided On : Jul-01-1996

Reported in : 1997CriLJ335; 1996(38)DRJ130; 1996RLR437

Judge : Usha Mehra, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 354

Appeal No. : Criminal Revision Appeal No. 201 of 1995

Appellant : Shakuntala Devi

Respondent : Suneet Kumar

Advocate for Pet/Ap. : B.K. Sharma and; Rajat Kumar, Advs

Judgement :

Usha Mehra, J.

(1) SMT.SHAKUNTALA Devi has felt aggrieved from the order of the Additional Sessions Judge thereby declining to frame the charge under Section 354, Indian Penal Code (In short the IPC) against the accused on the flimsy ground that the prosecution had not placed sufficient material on record to prove that the modesty of the petitioner was outraged.

(2) Before dealing with the facts of the case it must be understood that the Apex Court in the case of *Joginder Singh Vs. State of Punjab*, : 1979 CriLJ333 and *Kishun Singh v. State of Bihar* Jt 1993(1) Sc 1773 observed that while forming prima facie view the Judge has to confine himself within the limits prescribed. At that stage the Court is not to evaluate or appraise the evidence to come to the conclusion that the petitioner would ultimately get convicted. The Court is only to satisfy himself that the accused is involved in the commission of the crime. Prima facie case does not mean proof. Keeping this principle in view, we have to analyze the facts of this case to form an opinion whether modesty of the petitioner was outraged by the accused Sunil.

(3) The intention and knowledge are state of mind but nevertheless this fact has to be proved. This fact, however, cannot always be proved by direct evidence. At times it can be inferred from the circumstances of each case. The outrage of modesty can be concluded if a reasonable man thinks that the act of the offender was intended to or was such that it appears likely to outrage the modesty of a woman. The reaction of the woman is very relevant in such a case.

(4) The facts as unfolded in the Fir and disclosed by the petitioner in her statement supported by the testimony of Public Witness s reveal that on 26th September,1992 at about 8 Pm petitioner's son Rajesh and his friend were closing the shop when the accused Sunil, S/o Shri Darshal Lal stopped that friend of her son without any reason. Petitioner in order to avoid any fight asked her son to come home. After some time accused Sunil and Raj Kumar came there and abused them. Next day on 27th September,1992 while petitioner's son Ajay had gone to the barber shop for cutting hairs, accused abused him. Her son told her that Sunil threatened him on the way. At about 9 Am on the same day while the petitioner was cleaning the floor of her house, accused Sunil came there. After using filthy language, he forcibly tried to open the door and dragged her out of the house whereupon her cloths got torn. Her sons tried to intervene in order to rescue her from the clutches of the accused, but accused Sunil instead of leaving not only torn her cloth but also behaved improperly with her.

(5) The counsel for the defense contended that at best it was a sudden fight, there was no intention on the part of Sunil to outrage petitioner's modesty. In the absence of any intention or knowledge that the act was likely to outrage her modesty no case . under Section 354 Indian Penal Code was made out. This argument on the face of it cannot be appreciated. I think the learned Additional Sessions Judge fell in error in presuming that for an indecent act of outraging the modesty of a woman some documentary evidence is required. As already observed above beside the state of mind of the woman the circumstances are also very relevant to prima facie conclude whether her modesty was violated or not. In the instant case petitioner's statement that she was dragged out by Sunil from her house thereby her cloth got torn, coupled with the fact that he improperly behaved with her, to my mind, these circumstances read with her state of mind are a clear pointer to the fact that Sunil knew what he was doing, the modesty of petitioner was likely to be outraged. Why this part of her statement supported by the testimony of other Public Witness could not be treated a sufficient evidence to prima facie form an opinion that ingredients of Section 354 Indian Penal Code in the instant case has been made out. The fight at the time of closing of the shop on 26th September,1992 was between the accused persons on one hand and the son of the petitioner and his friend. Why would Sunil come to the house of the petitioner the next day and drag her from her house, torn her clothes and behave improperly, unless he had the intention to outrage her modesty. Deliberate act on the part of Sunil to drag the petitioner and his misbehaving coupled with the fact that clothes of the petitioner got torn, prima facie can be called an indecent act on the part of Sunil towards the modesty of a woman in this case. A reasonable man will think that the act of the offender Sunil was intended and he had the knowledge that by dragging and improperly behaving, he was prima facie outraging the modesty of the petitioner. Supreme Court in the case of Rupan Deol Bajaj vs. Kanwar J..J Singh GULL 1995(3) C.C C 147 was dealing with a case where because of the behavior of the accused when he slapped the complainant on her posterior, held that the accused intended to outrage or knew it to be likely that he would thereby outraging her modesty and thus the act fulfills one of the essential ingredients of Section 354, Indian Penal Code Apex; Court further observed that in the absence of direct evidence the intention or the knowledge of the accused

inferable from the attending circumstances of the case is a relevant consideration. The sequence of events in the case in hand show that by entering the house of the petitioner the following day of the tiff between accused person and son of the petitioner and then dragging her and tearing her clothes and improperly behaving, he knew that this act was likely to outrage the modesty of the petitioner.

(6) In this view of the matter, I am of the opinion that the Trial Court fell in error in ordering for the dropping of charge under Section 354 Indian Penal Code Prima facie the events of this case show that the essential ingredients of Section 354 Indian Penal Code have been .made out. The order of the Additional Sessions Judge is accordingly set aside. Directions are given to the Trial Court to frame the charge under Section 354 Indian Penal Code also against accused Sunil. Parties to appear before the Trial Court on Trial Court record be sent back forthwith. Any observations made in this petition will have no bearing on the merits of the case.

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