

Panna and ors. Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Jan-22-1986

Reported in : 1987CriLJ997; 1986(2)WLN238; 1987(1)WLN166;
1987WLN(UC)166

Judge : Guman Mal Lodha, J.

Appellant : Panna and ors.

Respondent : State of Rajasthan

Judgement :

Guman Mal Lodha, J.

1. These two appeals by the convicts accused are directed against the judgment of the Additional Sessions Judge, Tonk dt. 19th.Aug., 1976, whereby the accused were convicted and sentenced as under:
2. The substantive sentences on different counts were ordered to run concurrently.
3. Accused, Bheru and Panna, were acquitted Under Section 368, IPC, and co-accused, Smt. Mangali was acquitted Under Section 366/149, IPC.
4. This is a typical case, where three daughters who were brought by Smt. Mangali while conducting Nata with Kelya, have been abducted by Kelya and given in Nata for money consideration to the other accused persons in spite of the fact that they

were married and all the three were unwilling. The abduction took place by deceitful means when all the three daughters namely, Smt. Nandkishori, Smt. Dev (PW 9) and Smt. Ladpi (PW 6), were called from their husband's house by Kelya for taking them to a trip of Ramdevra and under that pretext, they were sold to other accused persons.

5. It is not necessary to discuss, in details, the facts and the evidence because,, the learned Counsel for the accused-respondents very fairly and frankly submitted that they would not press the appeal on merits but would request for a lenient view in the matter of the sentence.

6. It was pointed out that all the accused persons have undergone 5 months' imprisonment, already. Socially, as per the customs prevalent in Meena's community, the Nata of married daughters are also recognised.

Kelya Under Section 366, IPC 3 years' R.I. with fine of Rs. 500/- in default, 6 months' R.I.

Devilal & Ramkaran Each of them was sentenced to 2 years' R.I. with fine of Rs. 350/- in Under Section 366, IPC default of 3 months' R.I.

Bheru Under Section 366, IPC 2 years' R.I. with fine of Rs. 350/- in default, 3 months' R.I. Under Section 343. IPC 1 1/2 years' R.I. (one and half years)

Panna Under Section 343, IPC 1 1/2A years'R.I.

7. I have carefully considered the facts and circumstances of the case and evidence was also read over before me. In this age and era, it is not possible to accept the practice of selling or auctioning married daughters in Nata by her father even if such practice used to exist before the constitution came into force, a woman cannot be treated as 'chattels' and cannot be sold in Nata against their wishes even by real parents much less the accused who was not their real father but, he became father on account of Smt. Mangali's Nata to him, after the death of Mangali's earlier husband. Normally, in such cases, I am of the view that the sentence should be severe and deterrent. However, the fact is that the accused persons belong to schedule tribes (contd, on col. 2) and are illiterate and unaware

of the new horizons of the constitutional development and awakening in which, woman of this country has been given equal respectable status.

8. Moreover, it is alleged that Kelya is of more than 70 years of age and so also Bheru, and it would not be in the interest of justice to send them in jail now, more so when they have already undergone more than 5 months' imprisonment.

9. In the result, these appeals are dismissed with the modification in the impugned judgment of the trial Court that the convictions of the accused appellants, in both these appeals, are maintained but their sentences under different counts are reduced to one already undergone by them, and the fine as imposed upon them is increased to as under:

Kelya Rs. 1,500/-Devilal, Ramkaran, Bheru - Each of them would pay fine Rs. 1,000/-Panna His sentence Under Section 343, IPC is altered to the term & period already undergone by him and he would pay a fine of Rs. 1,000/- Bheru -do-

10. These amounts of fine when realised would be paid to the girls, Smt. Nand Kishori (PW 8), Smt. Dev (PW 9), & Smt. Lad (PW 6) in equal proportions. The trial Court would intimate these witnesses, (PW8, PW 9 & PW6) and pay them compensation in his presence and would not pay it to any persons claiming as attorney or Mukhtiar or power of attorney holder.

11. Six months' time from the date of receipt of record by the trial Court is allowed to the accused persons for making payment of fine before the trial Court, failing which, each one of them would undergo the sentence of 3 months'R.I.

12. The accused-appellants are on bail and need not surrender.

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