

Tejeng Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Feb-11-1982

Reported in : 1982WLN(UC)117

Judge : M.C. Jain, J.

Appeal No. : S.B. Criminal Appeal No. 51 of 1977

Appellant : Tejeng

Respondent : State of Rajasthan

Advocate for Pet/Ap. : Mr. P.L. Choudhary

Disposition : Appeal allowed

Judgement :

M.C. Jain, J.

1. Appellant Tejeng has been convicted for the offence under Section 366, I.P.C. has been sentenced to 1 year's rigorous imprisonment by the learned Sessions Judge, Banswara, by his judgment dated January 19, 1977.

2. The Prosecution case, in brief, is that in the morning of 11-5-76, Mst. Tola P.W. 1 aged 20 years along with her niece Mst. Kala aged 12 years left their house for the jungle for collecting the wood. It is said that the accused-appellant Tejeng

came to them and asked Mst. Tola to accompany him and he will keep her as his wife. There upon, Mst. Tola refused. It is said that the accused inflicted 2-3 lathis blows on the left leg of Mst. Tola and pulled her away. At a distance of 100 paces, one Lalchand met them and he also pulled her. At some distance, Mahji and Bhomji also told blows, The prosecution case further is that near the village Hetabari, Mahji and Bhomji left them. After some distance, Lalchand also left their company. Tejeng took Mst. Tola first to village Jadikajra and from Jadikajra to village Theemadh, Mst. Tola left for the village Chhota Lohariya in the night and went to the house of Mst. Puni, who reported the matter to Tola's brother Barsingh and then, Barsingh took her away to his village Somjipada from village Chhota Lohariya. A report was lodged on 13-5-76. Thereupon, a case was registered against the four accused-persons. After investigation, the accused-persons were challaned. On trial, the three other accused persons were acquitted. However, the appellant Tejeng was convicted and sentenced as aforesaid.

3. I have heard Mr. P.L. Choudhary, learned Counsel for the appellant and Dr. S.S. Bhandawat, learned Public Prosecutor for the State and perused the record of the case.

4. Having heard the learned Counsel for the parties and having perused the record, I am of the opinion that the conviction of the appellant can not be sustained. The whole prosecution story as narrated by Mst. Tola appears to be unnatural and improbable. P.W. 1 Mst. Tola was a grown up girl aged 20 years. Her relations with the appellant were already doubted. The appellant is a close neighbour of Mst. Tola. P.W.1 Mst. Tola nowhere raised any hue and cry on the way to the village Jadikajra and from there to village Thoomadh. From perusal of the statement, it appears that Mst. Tola willingly went with the accused. Although, Mst. Tola and Mst. Kala have stated that lathi blows were inflicted on the legs of Mst. Tola and there is some corroboration also from the statement of P.W. 7 Dr. B.S. Rathore. But the statements of P.W. 1 Mst. Tola and P.W. 2 Mst. Kala do not appear to be credible. If Mst. Tola was not a willing party, it was quite natural to raise an alarm and to have made it known to others that she has been forcibly abducted. Thus, her conduct and other attending circumstances lead to this conclusion that she was a willing and consenting party. In any case, an offence

under Section 366, I.P.C. is not proved beyond all reasonable doubt against the appellant. Thus, the appellant deserves to be acquitted.

5. Accordingly, the appeal is allowed. The conviction and sentence of the appellant are set aside and he is acquitted of the offence under Section 366, I.P.C.

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