

Satyaveer Vs. the State of Rajasthan

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Court : Rajasthan

Decided On : Mar-10-1993

Reported in : 1993WLN(UC)138

Judge : B.R. Arora and; N.K. Jain, JJ.

Appeal No. : D.B. Criminal (Jail) Appeal No. 93 of 1986

Appellant : Satyaveer

Respondent : The State of Rajasthan

Judgement :

B.R. Arora, J.

1. This appeal is directed against the judgment dated February 1, 1986, passed by the Sessions Judge, Churu, by which the learned Sessions Judge convicted and sentenced the appellant for the offence under Section 376 1PC

2. The incident, which led to the prosecution of the appellant, took place on 15.10.85, at about 2.00 p.m. when Kumari Ratna (Aged about 9 years) was raped by the accused-appellant in the Rohi of Kanak Singh-the father of the prosecutrix. The incident was, also, witnessed by PW 3 Ishwar Singh and PW 5 Fateh Singh. The report of the incident was lodged at Police Station, Hamirgrah, On 15.10.84, at 5.45 p.m. by Shri Kanak Singh-the father of the prosecutrix. The case of the

prosecution is that on 15.10.84, at about 2.00 p.m. Kumari Ratna had gone to graze her cattle. The accused, at about 2.00 p.m. came there and demanded water-mellon from her. She gave water-mellon to him. Thereafter the accused caught-hold of her and committed rape upon her. Ishwar Singh (PW 3) and Fateh Singh (PW 5) were coming to their field from their house. When they reached near the field of Kanak Singh, they saw the accused having sexual intercourse with Kumari Ratna and he was biting her cheeks. Kumari Ratna was crying. On seeing this, Ishwar Singh and Fateh Singh raised an alarm, whereupon the accused ran away. Inder Singh, Vinod Singh and Kaliyan Singh, also, came there and on being informed the incident, they followed the accused, caught hold of him and handed him over to the police.

3. The prosecution, in support of its case examined eleven witnesses. PW 2 Kumari Ratna is the prosecutrix who was raped, PW 3 Ishwar Singh and PW 5 Fateh Singh are the two eye witnesses of the occurrence, who saw the accused lying on Kumari Ratna and having sexual intercourse with her without her consent. PW 4 Vinod Singh, PW 6 Kaliyan' Singh and PW 10 Inder Singh are the three witnesses, who reached at the place of the incident immediately after the occurrence and saw the accused running from the place of the occurrence. These witnesses followed the accused, running from the place of the occurrence. These witnesses followed the accused, caught hold of him and produced him before the police. PW 1 Kanak Singh is the father of the prosecutrix who was informed by PW 3 Ishwar Singh regarding the incident at his house and who came at the place of the incident after receiving the information and thereafter went to the Police Station to lodge the report. PW 8 Madan Singh is the Motbir witness who is a witness to the arrest of the accused and the recovery of his Kacchha (underwear). PW 9 Dileep Singh and PW 11 Ridh Singh are the police witnesses. PW 9 Dileep Singh took the sealed samples for F.S.L. examination and handed them over to the State Forensic Science Laboratory, Jaipur. PW 11 Ridh Singh is the Station House Officer, who conducted the investigation and presented the challan. PW 7 Dr. Subhash Rajput is the Medical Jurist, who examined Kumari Ratna as well as the accused.

4. PW 2 Kumari Ratna, PW 3 Ishwar Singh and PW 5 Fateh Singh are the three eye witnesses of the occurrence, the evidence of whom is sought to be corroborated by the evidence of PW 4 Vinod Singh, PW 6 Kaliyan Singh and PW 10 Inder Singh, who came to the place of the occurrence immediately after the occurrence, followed the accused, caught hold of him and handed him over to the police. PW 2 Kumari Ratna, in her statement before the Court, has stated that she knows the accused very well. He came in the field in the afternoon about six-seven months before. At that time she was in her field. She had gone there to graze her cattle right in the morning. This witness was grazing her cattle near the water pond and her brother Vinod Singh was, also, in the field and was doing Lawni. She came in the field for taking water. After taking water, when she was going towards the water-pond, the accused came there and asked her that he was feeling thirsty and demanded a water-mellon from her. She gave water-mellon to the accused. He caught-hold of her and bit her cheeks and thereafter untied her Pajama and underwear and committed rape upon her. He thrust his penis in her vagina, due to which her vagina started bleeding. She tried to get herself rescued but could not.

5. PW 3 Ishwar Singh has stated that about six months before, at about 2.00 p.m., he and Fateh Singh (PW 5) were going to their field from their houses and when they reached near the field of Kanak Singh, they heard the screams of a child and when they saw in the field of Kanak Singh, they saw from a distance of 25 paces that the accused was committing sexual intercourse with Kumari Ratna. When they went near and raised an alarm, the accused took his Pajama and ran away. At that time Kumari Ratna was bleeding and was crying. On hearing their alarm, Inder Singh, Kaliyan Singh and Vinod Singh, also, came there, followed the accused and caught hold of him. He came from the field to inform Kanak Singh in the village and narrated the incident to him. Thereafter he alongwith Kanak Singh came to the place of the incident. They, also, brought a camel-cart and took Kumari Ratna to the Police Station. Similar is the statement of PW 5 Fateh Singh. This evidence of the prosecution has been sought to be corroborated by the evidence of PW 4 Vinod Singh, Kaliyan Singh and PW 10 Inder Singh. Those three witnesses have stated that they heard the cries, reached at the place of the occurrence and were informed by Ishwar Singh and Fateh Singh that the accused

has committed rape upon Kumari Ratna. They, also, saw the accused running away from the place of the occurrence. They followed the accused, caught hold of him and handed him over to the police. A lengthy cross-examination has been made by the learned Counsel for the accused but the testimony of these witnesses remained unshaken. By the reading of the statement of these witnesses, the prosecution case stands proved against the accused-appellant.

6. PW 7 Dr. Subhash Chandra Rajput has given his opinion regarding committing of the rape upon Kumari Ratna. He has specifically stated that Kumari Ratna was not habitual to the sexual intercourse and has been sexually assaulted. Her perineum and vulva were found stained with blood and there was a tear of about extending from lower border of vaginal orifice upto upper margin of anus involving whole perineal thickness and her vagina was full of clotted blood. The evidence of these witnesses further finds corroboration from the report of the F.S.L. Examination. The Kacchha (underwear) of the accused, the trousers (Pajama) and the underwear of the prosecutrix were sent for F.S.L. examination and the F.S.L. report shows that the Kacchha of the accused as well as the Pajama and underwear of the prosecutrix were found stained with 'A' group of blood.

7. It is not in dispute that rape was committed upon Kumari Ratna and the question is who committed the rape upon her. The accused-appellant's sister was married in the village and the accused used to come to meet her off and on. The accused was known to these witnesses. They had seen the accused in the village even before-hand and, therefore, the identification of the accused was not doubtful. These witnesses have identified the accused they have seen him. The prosecution has, therefore, been able to prove the case against the accused-appellant beyond reasonable manner of doubt.

8. Learned Counsel for the appellant has, also, contended that the sentence imposed against the accused-appellant by the learned Sessions Judge is highly excessive and deserves to be reduced. The accused, at the relevant time was in his early twenties while the prosecutrix was aged about nine years. It is no doubt, true that punishment should fit the crime and a lenient punishment in a grave crime is a serious distortion since it finds no impact on the impact on the criminal.

Undue sympathy to wards such an offender will harm the cause of justice and will undermine the efficacy of law. But looking to the facts and circumstances of the case and the age of the accused-appellant at the time when the offence was committed, we think it proper to reduce the sentence to that often year's rigorous imprisonment and a fine of Rs. 100/- and in default of payment of fine further to undergo one month's simple imprisonment.

9. In the result, the appeal is partly allowed. The judgment passed by the learned Sessions Judge, Churu, convicting the accused-appellant for the offence under Section 376 I.P.C. is maintained. However the substantive sentence, passed by learned lower Court is reduced to ten years rigorous imprisonment and a fine of Rs. 100/-and in default of payment of fine to further undergo one month's simple imprisonment.

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