

Ratanlal Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Jan-22-1998

Reported in : 1998CriLJ1788

Judge : P.C. Jain, J.

Acts : Evidence Act - Sections 27; Code of Criminal Procedure (CrPC) - Sections 313; [Indian Penal Code \(IPC\), 1860](#) - Sections 307, 376 and 394

Appeal No. : Criminal Jail Appeal No. 480 of 1997

Appellant : Ratanlal

Respondent : State of Rajasthan

Advocate for Def. : S.K. Vyas, Public Prosecutor

Advocate for Pet/Ap. : B.K. Parekh, Amicus Curaie

Disposition : Appeal dismissed

Judgement :

P.C. Jain, J.

1. This is an appeal from the judgment dated 10-9-1997 of the learned Special Judge, Atrocities on Women and Dowry Cases Court, Bhilwara whereby the accused-appellant Ratanlal was held guilty of the offences under Sections 376,

394 and 307 IPC and was sentenced to 7 years rigorous imprisonment together with a fine of Rs. 2000/- and in default of payment, to further undergo simple imprisonment for six months for the offence under Section 376 IPC; to 7 years' rigorous imprisonment together with a fine of Rs. 2,000/- and in default of payment of fine to further undergo simple imprisonment for six months for the offence under Section 394 IPC; and to undergo 7 years' rigorous imprisonment together with a fine of Rs. 2,000/- and in default of payment of fine to further undergo simple imprisonment for six months for the offence under Section 307 IPC.

2. The brief facts necessary for the disposal of this appeal may be stated as follows. P.W. 2 Ganpatlal, Up-sarpanch Kotadi while going to Sultanpura, saw a woman lying unconscious under a Babul tree. He also saw certain injuries on her neck. He went to Police Chowki, Hurda and informed about this incident to S.H.O. Police Station, Pratapnagar, Bhilwara on the same day. On receipt of this information, P.W. 13 Pushpendra Singh, S.H.O. Police Station, Pratapnagar Bhilwara made a brief mention in his Rojanamcha Aam. he then went to the site and saw P. W. 5 Mst. Sumitra lying there in unconscious condition near Rupaheli Chauraya. He managed for sending Mst. Sumitra to Govt. Referral Hospital, Gulabpura. P. W. 3 Dr. A. P. Mathur attended Mst. Sumitra and found the following injuries on her person :

1. Incised wound 5 cm x 2 cm x upto trachea in front of neck.
 2. Incised wound 1/2 x 1/4 cm in palmar aspect of distal phalanex of left throat.
 3. Incised wound 1/2 x 1/4 cm on palmar aspect of distal phalenex of left ring finger.
3. The first injury was grievous and the other two were simple in nature. The duration of injuries was found to be fresh. Dr. A. P. Mathur prepared the Injury Report Ex. P. 2 and then referred Mst. Sumitra for adequate treatment to J & L Hospital, Ajmer.
4. Thereafter, the S.H.O. recorded the statement of Mst. Sumitra and on that basis, he registered a case against the accused-appellant. He also inspected the

site and prepared the site plan and site inspection memos. The Investigating Officer also collected Ghaghara which Mst. Sumitra was wearing at the time she was raped by the accused. Thereafter, the accused-appellant was arrested vide Memo Ex. P. 1.

5. During Police custody, accused made a disclosure statement Ex. P. 13 under Section 27 of the Evidence Act that after the commission of this offence he had concealed the ornaments taken from the person of Mst. Sumitra and the weapon of offence i.e. Knife under stones lying in front of his house and he was prepared to get the same recovered. In pursuance of the above information, the accused got the Ornaments of Mst. Sumitra recovered from the place where he had concealed them under the Stones vide Memo Ex. P. 5. Similarly he also got the Chhuri recovered after digging the earth from the place pointed out by him in his disclosure statement under Section 27 of the Evidence Act vide Memo Ex. P. 6. The Investigating Officer seized the Ghaghra and Chhuri separately. He also seized the blood stained soil in a separate packet and forwarded the same to the superintendent of Police for onward transmission to the Forensic science Laboratory, Jaipur for examination.

6. The ornaments were put for identification after mixing other ornaments with them and Mst. Sumitra and her husband Kailash both correctly identified the ornaments recovered from the possession of the accused and belonging to Smt. Sumitra. After collecting the above incriminating evidence, the police filed a challan against the accused-appellant in the court of the learned Chief Judicial Magistrate, Bhilwara from where this case was committed for trial to the court of the learned Sessions Judge, Bhilwara. The learned Sessions Judge transferred the case for trial to the court of the learned Addl. Sessions Judge, Bhilwara, who framed the charges against the accused-appellant under Sections 376, 394 and 307 IPC. The accused-appellant pleaded not guilty to the charges and claimed to be tried.

7. Thereafter, the prosecution examined as many as 15 witnesses in support of its case. The statement of the accused-appellant was recorded under Section 313 Cr.P.C. who denied the above allegations and alleged that he was having a scuffle

with Kailash, the husband of the prosecutrix, Mst. Sumitra tried to intervene and in that process she was got injured. Hence a false case has been launched against him on account of enmity. The accused did not produce any evidence in defence. In the meantime the case was transferred to the court of the learned Special Judge, Atrocities on Women and Dowry Cases Court, Bhilwara.

8. The learned special Judge after appreciating the evidence observed that there was no eye witness and the whole prosecution case hinges on the circumstantial evidence and the statement of the prosecutrix Mst. Sumitra. He further came to the conclusion that the statement of the prosecutrix Mst. Sumitra is fully corroborated by the injuries sustained by him during the occurrence as also by the recoveries of the ornaments and Chhuri at the instance of the accused-appellant from his possession. The learned special Judge further observed that since the accused was the real husband of her sister and therefore, Mst. Sumitra did not find it objectionable to go with him to Jungle for collection of fuel. The accused overpowered Mst. Sumitra in the jungle at the point of Chhuri and committed rape on her. When she tried to resist, the accused inflicted a grievous injury on her neck in order to kill her. When in order to ward off the attack of the accused Mst. Sumitra wanted to catch hold of the Churri, she sustained two simple injuries as described in the Injury Report. The learned special Judge also took into consideration the fact that Mst. Sumitra was found lying unconscious at Rupaheli Chauraya, she was first spotted by P.W. 2 Ganpatlal who informed about this incident to the S.H.O. and thereafter, the S.H.O. started investigation. He, therefore, found the accused-appellant Ratanlal guilty of the offence under Sections 307, 394 and 376 IPC and sentenced him as aforesaid.

9. I have heard Mr. B. K. Parekh, the learned Amicus Curiae appearing for the accused-appellant and Mr. S. K. Vyas, the learned Public Prosecutor for the State and have very carefully gone through the record of the case.

10. It has been contended by Mr. Parekh that in the instant case no medical evidence has been produced regarding rape. The Injury report of Mst. Sumitra only shows that when Dr. A. P. Mathur examined her, he found the above injuries on her person. The accused has given a very plausible explanation as to how Mst.

Sumitra sustained these injuries. According to the accused, there was a scuffle between him and Kailash, the husband of Mst. Sumitra and when Sumitra tried to intervene, she was injured by the weapon. On account of enmity between the accused and Kailash, this false case has been foisted against him through Mst. Sumitra.

11. Mr. Parekh also wondered as to why Mst. Sumitra did not raise an alarm when she was not afraid even when the accused put out a knife and threatened her to kill if she did not obey to do what he was asking. The report of Forensic Science Laboratory has not been received to show that Ghaghara allegedly seized from the person of Mst. Sumitra was stained with semen. The recovery of ornaments is also false and fictitious and thus no importance can be attached to the same.

12. On the other hand, the learned Public Prosecutor has supported the impugned Judgment of the learned Special Judge.

13. I have considered the arguments raised at the bar and have very carefully gone through the prosecution evidence and other material on record. The whole prosecution hinges on the testimony of the prosecutrix Mst. Sumitra.

14. P.W. 5 Mst. Sumitra has stated that two years back she went to meet her sister and on the day of the occurrence when she wanted to come to Sangariya all alone, the accused did not allow her to go all alone. He first despatched his wife to some other place and then persuaded her to accompany him to jungle in order to fetch fuel. She did not find anything objectionable and she started with him on abicycle. The accused stopped his cycle at some lonely place. He came all of a sudden from behind and fell her down in order to commit rape. She resisted but the accused took out his knife and threatened to kill her if she did not surrender herself. He also caused an injury on her neck. After that the accused committed rape on her. She tried to snatch the knife and in that process, she got injuries on her fingers. The accused also took out the ornaments which she was wearing at that time.

15. P.W.3 Dr. A. P. Mathur has also supported the testimony of the prosecutrix. He found the external injuries as stated above vide Injury Report Ex. P. 2. Regarding recovery of ornaments, P. W. 13 Pushpendra Singh has stated that while in custody, the accused made disclosure statement that he had concealed the ornaments under the stones in front of his house and that he was prepared to recover them. Pursuant to the above information, the accused brought the S. H. O. in front of his house and got the ornaments recovered from the place pointed out by him. The ornaments were also put for identification and Mst. Sumitra and Kailash identified the same.

16. P.W. 2 Ganpatlal found Mst. Sumitra lying in unconscious condition on Rupahali Chauraya and he informed the S.H.O. The S.H.O. reached the place of the occurrence and found the prosecutrix lying there in unconscious condition. Thereafter, she was removed to the Hospital and then to J & L Hospital, Ajmer for better treatment. On receiving information, P.W. 4 Kailash went to the Hospital and his wife Mst. Sumitra told him about the incident there. There is also evidence given by Durgalal to the effect that the accused hired a bicycle from his shop on which he is alleged to have taken the prosecutrix to the jungle. The Chhuri was also recovered from the possession of the accused in pursuance of his information.

17. In a case of rape, the appreciation of evidence stands on a slightly different footings. In Rafiq's case 1980 Cri LJ 1344 : AIR 1981 SC 559 (SC), Krishna Iyer, J. as he then was observed at page 1345; of Cri LJ :

When no woman of honor will accuse another of rape since she sacrifices thereby what is dearest to her, he cannot cling to a fossil formula and insist on corroborative evidence, even if taken as a whole, the case spoken to by the victim strikes a judicial mind as probable. ...When a woman is ravished what is inflicted is not merely physical injury but the deep sense of some deathless shame.... Judicial response to human rights cannot be blunted by legal bigotry.

Thakkar. J. (as he then was) observed with some anguish :

In the Indian setting refusal to act on the testimony of the victim of sexual assault in the absence of corroboration as a rule is adding insult to injury.... A girl or a woman in the tradition bound non-permissive society of India would be extremely reluctant even to admit that any incident which is likely to reflect on her chastity had ever occurred. She would be conscious of the danger of being ostracized by the society.... And when in the face of these factors, the crime is brought to light, there is built-in assurance that the charge is genuine rather than fabricated....

18. In the instant case, the statement of the prosecutrix Mst. Sumitra is fully corroborated by the medical evidence. Dr. A. P. Mathur has found the injuries on her neck and fingers. There appears to be no reason as to why Mst. Sumitra would depose falsely against the husband of her sister. There was no enmity between the accused and the prosecutrix to provide a motive for launching a false case against the accused. The ornaments were also recovered at the instance of the accused and even the weapon of offence was also recovered at his instance. In this view of the matter, the learned special Judge was right in convicting and sentencing the accused-appellant for the above offences. I see no reason to interfere with the sentences passed against the accused-appellant, j

19. In the result, I find no substance in this appeal and it is hereby dismissed.