

Moti Lal Vs. State of Rajasthan

Moti Lal Vs. State of Rajasthan

SooperKanoon Citation : sooperkanoon.com/764632

Court : Rajasthan

Decided On : Feb-09-1990

Reported in : 1990(1)WLN610

Judge : N.C. Sharma, J.

Appeal No. : S.B. Cr. Appeal No. 441 of 1982

Appellant : Moti Lal

Respondent : State of Rajasthan

Disposition : Appeal allowed

Judgement :

N C. Sharma, J.

1. Mst. Bhooli aged 30 years, widow of Deo Lal Mali, resident of village Kundi lodged a First Information Report on April 7, 1982 at 8 00 a.m. at Police Station, Nahargarh, District Kota regarding her having been raped by the appellant on April 3, 1982 at 7-8 p. m. The Officer-in-Charge, Police Station, Nahargarh filed a charge sheet against the appellant for offence Under Section 376, IPC in the Court of Judicial Magistrate, Baran and, on committal of the case by him, the Additional Sessions Judge No. 1, Baran, by his judgment dated September 22, 1982, held the appellant guilty for offence Under Section 376, IPC and sentenced him to

rigorous imprisonment for a term of three years and a fine of Rs. 1000/-. The appellant convict has come in appeal to this Court.

2. There are certain special features and peculiar circumstances in this case. Smt. Bhooli had stated that she was aged 30 years and was widow of Deolal deceased. She was living with her mother-in-law and her husband's younger brother at village Kundi. This widow lady, on or about April 3, 1982 had gone from village Kundi to Baran town in a bus to purchase some articles in connection with the recital of 'Satya Narain Katha'. It is somewhat curious that for petty articles required in connection with the 'Satya Narain Katha', this lady had to travel by bus from village Kundi to Baran. The travel from Kundi to Baran was not alone but it was in the company of the appellant. In the return journey from Baran to Kundi, she got a lift from the appellant in a tractor to come back from Baran to Kundi and in between, it is said that rape was committed by the appellant with her in the way in a 'Khal'. Chhitar Mai and Anandi Lal had seen this incident. On seeing by Chhitar Mai and Anandi Lal the appellant took to his heels. The lady states that she narrated the incident to Chhittar Mal and Anandi Lal and then went to her village along with them. These persons belonged to her village. She narrated the incident to her mother-in-law. Five respectable persons of the village were assembled. Despite all that, First Information Report was lodged after four days. There can be no cogent explanation for this undue delay in lodging of the First Information Report and, more so when assistance of Chhitar Mal and Anandi Lal and also five respectable persons of the village was available to her. The delay in lodging of the First Information Report speaks a lot by itself and it irresistibly shows that she was a consenting party to the sexual intercourse, but when the things leaked out and her mother-in-law and especially her house neighbours felt offended, the First Information Report was lodged. It is usual in Indian Community that when a secret act of a lady which is regarded by the society as immoral, is leaked out, the incident which had occurred with consent, changes its character and becomes a forcible act. This is how, it is thought, that the respectability of a female is safeguarded. This peculiar to rural society in this country.

3. The medical examination of Smt. Bhooli Bai took place on April 8, 1982 and there was no injury over face or breasts. It is mentioned that there was swelling

and cedema of vaginal orifices and there was one scratch mark on right side of vaginal wall. There was clearly no evidence of force being used by the appellant.

4. The contact of the appellant with Smt. Bhooli Bai was so intimate that even he was present when she purchased petty articles of goods at Baran. She made the payment after passing the hands of the appellant. So cordial was the intimacy and so much was the trust. Consent was there and that is the irresistible conclusion. The theory of rape is after-thought and deserves outright to be rejected.

5. I allow this appeal set aside the judgment of the Additional Sessions Judge, Baran dated September 22, 1982 and also the conviction and sentence of the appellant, recorded by him and acquit the appellant of the offence Under Section 376, IPC. The appellant is on bail. His personal bond, and surety bond are hereby cancelled and he need not surrender.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com