

Doongarsingh Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Sep-21-1999

Reported in : 2000CriLJ1646

Judge : Bhagwati Prasad, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 376

Appeal No. : Cri. Appeal No. 168 of 1982

Appellant : Doongarsingh

Respondent : State of Rajasthan

Advocate for Def. : Ramesh Purohit, P.P.

Advocate for Pet/Ap. : Radhey Shyam Sharma, Adv.

Disposition : Appeal dismissed

Judgement :

Bhagwati Prasad, J.

1. This appeal is directed against the judgment of the learned Additional Sessions Judge No. 1, Jodhpur (Camp Jaisalmer) dated 23-4-1982 passed in Sessions Case No. 38/81. The appellant, who was working in the Military Engineering Service, at the relevant time was posted at Jaisalmer, has been convicted under

Section 376, I.P.C. He has been sentenced to 3 years rigorous imprisonment with a fine of Rs. 100/- and in default to further undergo 3 months rigorous imprisonment.

2. Briefly stated, the facts of the case are that on 6-5-1981 at about 5 p.m. the prosecutrix Smt. Shanti Devi wife of Ramchandra aged 50 years, who was serving as a maid servant in the Air Force School, appeared before the police and stated that at about 1 p.m. while she was going to her house from the school, she was intercepted by the accused in her way. He was under the influence of liquor. He caught hold of her and took her to a distance of about 300 yards towards the water channel where he committed rape on her. After the rape she went to her house where her husband Ramchandra met her. She reported the matter to Ramchandra and thereupon she went to the police station and made the report.

3. After usual investigation, a challan was present and trial was held. The prosecution examined the prosecutrix Smt. Shanti Devi. She deposed about the forcible rape on her by the accused. She also proved that she sustained injuries on the back and bite marks on the cheeks. She also produced her torn petticoat and other articles. The accused was not immediately apprehended as he has made himself scarce and could be arrested after a considerable period. His absence has been recorded in the M.E.S. record. The accused appellant has cross-examined her and nothing substantial has been elucidated from her statement in cross-examination.

4. Learned counsel for the appellant has criticised the prosecution case on the ground that either it was a case of consent or there was no rape at all. Both the defence runs contrary to each other. When there were injuries on the person of Smt. Shanti Devi, it could not be a case of consent. The injuries can be sustained only when force is used. Shanti has sustained injuries, then use of force on her is evident. The medical evidence has clearly corroborated her statement. On the strength of the testimony of the prosecutrix corroborated by medical evidence and abscondance of the accused from his service for a considerable period are the circumstances which indicate unhesitatingly towards the complicity of the accused. If an accused serving in the M.E.S. cannot discipline himself and outrage the

modesty of a woman then no lenient attitude could be adopted by the Court.

5. Learned counsel for the appellant has stated that by this time Smt. Shanti Devi and her husband Ramchandra both have expired. Therefore, lenient view may be taken in the matter of awarding sentence. None of these factors entitle the accused appellant any leniency and have no bearing on the offence under Section 376, I.P.C. which is an offence against the Society and the State. A person who has been serving in a disciplined service commits such an offence then it reflects on the discipline of such service.

6. In this view of the matter, no interference is called for. There is no force in this appeal and the same is hereby dismissed. The conviction and sentence awarded against the accused appellant are maintained.

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