

**Mansur Vs. State of Rajasthan**

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**Court :** Rajasthan

**Decided On :** Oct-17-1986

**Reported in :** 1987WLN(UC)155

**Judge :** Milap Chand Jain, J.

**Appeal No. :** S.B. Criminal Jail Appeal No. 293 of 1985

**Appellant :** Mansur

**Respondent :** State of Rajasthan

**Judgement :**

**Milap Chand Jain, J.**

1. Mr. B. Advani is appointed as Amicus Curiae.
2. I have heard the learned counsel for the appellant and the learned Public Prosecutor for the State and perused the record of the case.
3. The appellant has been convicted for the offence under Section 376, IPC and has sentenced to 5 years rigorous imprisonment and to pay a fine of Rs. 250/-, in default of payment of fine to further undergo six months' rigorous imprisonment.
4. The occurrence took place at about 12 in the night on 14-9-1983, when the prosecutrix Mst. Phula was sleeping. The appellant had visited the 'Bhajan

Mandali' which was going on at a distance of 200 ft. from the place of occurrence. The accused had left the `Bhajan Mandali' sometime before the occurrence. He was armed with a dagger. The accused threatened Mst. Phula and forcibly committed rape on her. Thereupon, she raised an alarm, which attracted the witnesses, viz., PW 3 Puja, PW 4 Naina and PW 5 Bhikna. The accused then tried to run away but he was caught. But he got some how relieved. The accused had left his shirt, Battery, Comb, Mirror and dagger. The report of the occurrence was lodged on 16-9-1983 at 11 a.m. After investigation, charge-sheet was presented against the appellant and on trial, the accused was found guilty. It may be stated that the offence under Section 376, IPC is brought home to the accused from the statement of Mst. Phula corroborated by the witnesses, who were attracted to the scene of occurrence. The witnesses had seen the accused running from the scene of occurrence and even he was apprehended, the accused had left his articles at the spot. The 'Gaghara' (Ex. 1/9) of the prosecutrix was seized, which was found stained with human semen. The learned Sessions Judge has considered the entire evidence. It is true that there were no marks of the injuries on the person of the prosecutrix and that report of the occurrence was lodged with delay. But for these reasons, the prosecution case cannot be disbelieved particularly the statement of the prosecutrix. In my opinion, the statement of the prosecutrix is worthy of credence and the accused appellant has rightly been convicted for the offence under Section 376, IPC.

5. Coming to the question of sentence, 3-1/2 year's sentence would be adequate.

6. Accordingly, the appeal is partly allowed. The conviction of the appellant is maintained and his sentence is reduced to 3-1/2 years rigorous imprisonment for the offence under section 376, IPC. The sentence of fine is remitted.

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