

Jeet Singh Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Mar-25-1998

Reported in : 1998(1)WLN298

Judge : B.J. Shethna, J.

Appeal No. : S.B. Criminal Appeal No. 818 of 1980

Appellant : Jeet Singh

Respondent : State of Rajasthan

Disposition : Appeal dismissed

Judgement :

B.J. Shethna, J.

1. The appellant accused has challenged in this appeal the judgment and order of conviction and sentence passed by the learned Trial Judge, whereby, the accused is came to be convicted for the offence punishable under Section 376/511 IPC and sentenced to suffer 2 years R.I. and to pay fine of Rs. 50/- in default to further undergo 15 days R.I.

2. Learned Counsel Shri Doongar Singh for the appellant submitted that there is gross delay of four days in filing the FIR. It is true that FIR was lodged late, but she has given explanation in her evidence that she was afraid of the accused,

therefore, she did not lodge the complaint immediately. In cases of rape, delay of 3-4 days would not make much difference. If the evidence of the prosecutrix is otherwise found to be trustworthy and reliable, then her evidence must be accepted. Hence, first submission of Mr. Doongar Singh is rejected.

3. Second submission made by the learned Counsel Shri Doongar Singh was that there was no medical examination of the prosecutrix. It is true that there was no medical examination. In case of rape, the investigation officer should see to it that there is proper medical examination. However, in the instant case, the facts are so gross that merely because there was no medical examination, the evidence of the prosecutrix cannot be discarded. The husband of the prosecutrix was out of town, therefore, wife of the accused Jeet Singh came to her house and asked her to sleep in their house. On the request being made, she had gone with her minor daughter. It is her say that after the wife to Jeet Singh went to sleep, he came near to her and told her that her daughter has gone to sleep and tried to commit forcible rape, which was resisted by her. In the mid-night, she left with her daughter because of the incident. Pallo, co-accused, wife of the accused, once again requested her to come back, but obviously she would not go back to their house after such' a heinous crime committed by the accused.

4. One more submission was raised before the learned Trial Judge that the identity of the accused was doubtful, because in the night it was very difficult to identify the accused. Ordinarily, this submission would have been accepted but in the instant case the offence in question took place in the house of the accused. No other male member, except the accused was present in the house. Though it was a dark night, the prosecutrix could have easily identified the accused not only by his voice but from a very close distance, therefore there was no question of mistaken identity. Considering her evidence, in my opinion, the Trial Court rightly convicted the accused for the offence under Section 376/511 IPC.

5. In view of the above discussion this appeal fails and is hereby dismissed. The accused is on bail, his bail bonds stands cancelled. He shall now surrender within one month from today, failing which non-bailable warrant be issued against him.

