

Magiya Vs. State of Rajasthan

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SooperKanoon Citation : sooperkanoon.com/769670

Court : Rajasthan

Decided On : Jul-02-1986

Reported in : 1986WLN(UC)587

Judge : Guman Mal Lodha, J.

Appeal No. : S.B. Cr. Appeal No. 293 of 1978

Appellant : Magiya

Respondent : State of Rajasthan

Disposition : Appeal dismissed

Judgement :

Guman Mal Lodha, J.

1. Magiya has filed this appeal against the judgment dated August 11, 1978 of the learned Addl. Sessions Judge, Sirohi, by which he convicted the accused-appellant under Section 376, IPC and sentenced him to five years rigorous imprisonment and fine of Rs. 200/- and in default of payment of fine, to further undergo rigorous imprisonment of four months.

2. The prosecutrix Mst. Kasu was only nine years of age when she was ravished by the accused, who is alleged to be of 40 years of age. According to the medical evidence, such injury can be caused by fingering also if the finger has got nails, as

there was lacerated wound on posterior fornix of vagina. It was swollen but not ruptured. PW 7 Dr. S.P. Purohit has testified that there was lacerated wound on left side of vagina adjacent to hymen and fresh blood was oozing out. According to the medical evidence, forcible sexual intercourse was committed with the girl within six hours of her medical examination. There was another injury on the lips, which was possibly by bite.

3. On a thoughtful consideration of the entire evidence including the evidence of the prosecutrix and the medical evidence, I am of opinion that the allegation of rape is well-proved. The girl is of very tender age and the rape on the girl of such a tender age by an adult of 40 years is most reprehensible and barbaric. There is, therefore, no scope for having any leniency or taking liberal view, which if taken; in my view, would tantamount to abatement of such heinous offence which is slur against the Society and womanhood as a whole and which deserves most deterrent punishment.

4. Consequently, the appeal fails and it is hereby dismissed.