Raji Vs. State

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Court : Chennai

Decided On : Feb-23-1996

Reported in : 1997CriLJ2040

Judge : M. Karpagavinayagam, J.

Acts : Indian Penal Code (IPC), 1860 - Sections 354, 376 and 506; Code of Criminal Procedure (CrPC) , 1973 - Sections 313

Appeal No. : Crl. Revision Case No. 640 of 1993

Appellant : Raji

Respondent : State

Advocate for Def. : P. Govindrajan, Govt. Adv.

Advocate for Pet/Ap. : Miss. A.C. Jayalakshmi, Adv.

Judgement :
ORDER

1. The revision petitioner was facing trial under Sections 354, 376 and 506(2), I.P.C. and convicted by the learned Assistant Sessions Judge, Vellore, North Arcot Ambedkar District in his Judgment dated 6-11-1992 in S.C. No. 47 of 1992, under Sections 376 and 506(2), I.P.C., and sentenced him to undergo R.I. for 5 years and to pay a fine of Rs. 5000/- in default to undergo R.I. for one year in respect of

the offence under Section 376, I.P.C. and to undergo R.I. for one year in respect of the offence under Section 506(2), I.P.C. On appeal the learned Additional Sessions Judge, Vellore North Arcot Ambedkar District in C.A. No. 182 of 1992, by his Judgment dated 16-8-1993, confirmed the conviction and sentence imposed on the petitioner in respect of the offence under Section 376, I.P.C. alone and set aside the order of trial court in so far as the conviction and sentence imposed under Section 506(2), I.P.C. are concerned. Against the order of first appellate Court, the present revision has been preferred by the revision petitioner.

2. The case of the prosecution is as follows :-

P.W. 1 Kasi aged about 16 years and her younger brother P.W. 2 Ramesh aged about 9 years, on 26-9-1989 at 3.00 p.m. near Rajamettupallam, were grazing the cattle. At that time, the petitioner/accused who belong to the neighbouring village came and forcibly took P.W. 1 Kasi to the nearby fence. When this was objected to by P.W. 2 Ramesh, the petitioner/accused showed a knife and threatened him. Then, P.W. 1 was made to lie down near a bush and there the accused raped her, in spite of her resistance. Then the accused went away. P.W. 1 and P.W. 2 came to a canal nearby and washed the clothes of P.W. 1 and thereafter they came to their house and informed to P.W. 3 Kamala, the mother. They waited till the arrival of P.W. 4 Manickam, the father of P.W. 1 and the husband of P.W. 3. On 27-9-1989 at 6.00 p.m. P.W. 4 Manickam came back home, to whom P.Ws. 1 to 3 narrated the incident. On 28-9-1989 at 6.00 a.m. P.W. 1 accompanied by P.W. 4, her father, came to the Veppamkuppam police station and gave Ex. P1 complaint to P.W. 6 Kannan, the Head Constable, who in turn registered the case in Cr. No. 313 of 1989 and sent P.W. 1/victim girl to Government Hospital, Marattipalayam.

3. At 10.50 a.m. on 28-9-1989, P.W. 5 Doctor examined the victim girl/P.W. 1 and found nail marks on her both thighs and an injury on her private part. Ex. P2 is the wound certificate issued by P.W. 5 Doctor.

4. P.W. 6, the Head Constables went to the spot and prepared observation mahazar and rough sketch Ex. P4. P.W. 7 Rangarajan, Sub-Inspector of Police took up further investigation and filed charge sheet.

5. When the petitioner/accused was questioned under Section 313, Cr.P.C., by the trial Court, he denied his complicity in the crime. The trial court in S.C. No. 47 of 1992, elaborately considered the oral evidence of P.Ws. 1 to 7 and documentary evidence of Exs. P1 to P4 and then convicted the accused as referred earlier. In the appeal in C.A. No. 182 of 1992, the first appellate Court, confirmed the conviction and sentence imposed in respect of the offence under Section 376, I.P.C., and set aside the order of conviction and sentence in so far as it relates to Section 506(2), I.P.C. is concerned. Against this judgment, this revision has been filed.

6. Heard learned counsel appearing on either side.

7. Ms. A. C. Jayalakshmi, learned counsel appearing for the revision petitioner strenuously contended that the evidence of P.Ws. 1 and 2 are not reliable and there is a delay in F.I.R. and the injuries found on the victim girl/P.W. 1 are self-inflicted and that the trial Court has not taken into account the various infirmaties found in the case of prosecution.

8. Learned counsel for the petitioner took me through the entire evidence adduced by the prosecution before the trial court in order to substantiate her contention that the prosecution case was not proved beyond reasonable doubt. The perusal of the evidence of P.Ws. 1 and 2 disclosed that the accused/petitioner suddenly appeared on the scene of occurrence at about 3.00 p.m. on 26-9-1989 and forcibly took P.W. 1 Kasi near the bush and there raped her. P.W. 2, the younger brother of P.W. 1 was only aged about 9 years, who witnessed the presence of the petitioner during the occurrence. The evidence of both the witnesses P.Ws. 1 and 2 are cogent and convincing. They need not speak falsehood to implicate the petitioner/accused, that took, in a rape case. P.W. 1's evidence has been affirmed by the medical evidence given by P.W. 5 doctor, who found injury on her private part and nail marks on her both the thighs.

9. Mere delay in the F.I.R. will not affect the-credibility of the victim in a rape case. Invariably, there ought to be some delay in registration of the F.I.R., because in the villages, before rushing to the police station in order to give complaint, the family of the victim girl will think twice, since the future of the girl is involved. In the

instant case, the delay in F.I.R. has been properly explained by P.Ws. 3 and 4, the parents of P.W. 1/victim girl, which has been quite acceptable and the Courts below did the same correctly.

10. Another argument advanced by learned counsel for the revision petitioner is that the F.I.R. reached the court only on 3-10-1989. It has no significance at all, because the victim girl was examined by the Doctor as early as on 29-9-1989 itself. P.W. 5 doctor deposed in Court that the victim girl/P.W. 1 told her that she was raped. In view of the above circumstances, there cannot by any other view, that could be taken, from that of the conclusion arrived at by both the Courts below, in respect of the offence under Section 376, I.P.C.

11. As the revision has no merits, the same is liable to be dismissed. Accordingly, the revision is dismissed.

12. Revision dismissed.