SUPREME COURT OF INDIA

Dildar Singh

Vs

State of Punjab

Criminal Appeal No. 549 of 2005

(B. P. Singh and Altamas Kabir, JJ)

20.07.2006

JUDGMENT

B. P. SINGH J

In this appeal by special leave, the appellant has impugned the judgment and order of the High Court of Punjab and Haryana at Chandigarh dated February 07, 2005 in Criminal Appeal No. 51-SP/1998 whereby his conviction and sentence under Sections 376 and 506 IPC has been upheld. The appellant was sentenced to 7 years rigorous imprisonment and a fine of Rs. 2, 000/- and in default of payment of fine to undergo rigorous imprisonment for l year under Section 376 IPC. He was also sentenced to undergo rigorous imprisonment

2. The appellant herein was a drawing teacher in a government school where the prosecutrix was studying in class VIII. The case of the prosecution is that on the 6th March. 1987 when the prosecutrix had gone to the school for coaching in science practical, the appellant took her to a class room and raped her. Though the occurrence took place on the 6th March 1987 the prosecutrix did not disclose this fact to any one Later when she experienced some plain in her abdomen she was attended to by her mother who found that the prosecutrix was pregnant on further inquiry the prosecutrix revealed to her the fact that on 6th March, 1987 such an occurrence had taken place. Her mother informed her father who was in service, and after her father came to the village, the matter was reported to the police. It is not in dispute that the prosecutrix is below 16 years of age.

3. The first information report was lodged by the prosecutrix-P.W.4 on 25th June, 1987. On the following day, i.e., on 26lh June, 1987 she was medically examined by a doctor P.W. 1 who found that she was carrying 26 weeks pregnancy. The doctor obviously did not find any injury on her person or other evidence to establish conclusively that she was subjected to forcible intercourse. This was obviously so because the incident had taken place on 6th March. 1987 while the presecutrix was examined on 26lh June, 1987 by the doctor. The prosecutrix P.W. 4 in the course of her deposition stated that a similar incident had taken place earlier in December 1986 and on that occasion as well it was the appellant who forcibly had sexual intercourse with her in one of the class rooms in the school.

4. The appellant in his defence stated that the allegations made against him were false and concocted. His plea was that when the students of the school had gone to another school in a neighbouring village to take examination, the prosecutrix was found to have gone to the wheat fields with some of the boys, and this matter was reported to the Headmaster of the Government School where the prosecutrix was studying. The appellant was asked by the Headmaster to look into the matter and after making an inquiry he had reprimanded the boys concerned. It was on this account that he had been falsely implicated.

5. We have heard counsel for the parties at length and perused the evidence on record.

6. The main submission urged on behalf of the appellant is that there was considerable delay in lodging the first information report. It is also argued that there was never any complaint about the earlier incident. Therefore the delay in lodging the report was fatal to the case of the prosecution. We notice from the judgment of the High Court that the High Court has referred to several decisions of this Court and applied the principles laid down therein to the facts of the present case. This Court has observed in several decisions that the Courts cannot overlook the fact that in sexual offences delay in the lodging of the FIR can be due to variety of reasons particularly the reluctance of the prosecutrix or her family members to go to the police and complain about the incident which concerns the reputation of the prosecutrix and the honour of her family. A girl in a tradition bound non- permissive society would be extremely reluctant even to admit that any incident, which is likely to reflect upon her chastity, had occurred, being conscious of the danger of being ostracized by the society or being looked down by the society. Her not informing any one about the incident in the circumstances cannot detract from her reliability. In normal course of human conduct an unmarried girl would not like to give publicity to the traumatic experience she had undergone and would feel terribly embarrassed in relation to the incident to narrate such incident. Overpowered, as she may be, by feeling of shame her natural inclination would be to avoid talking to anyone, lest the family name and honour is brought into controversy. Thus, delay in lodging the first information report cannot be used as a ritualistic formula for doubting the prosecution cases and discarding the same on the ground of delay in lodging the first information report. Delay has the effect of putting the Court on guard to search if any explanation has been offered for the delay and, if offered, whether it is satisfactory.

7. In the instant case, the girl was a minor below the age of 16 years. She was studying in Class VIII and the appellant was the drawing teacher of that class. It is no doubt true that the prosecutrix did

not report the incident to anyone either on the first occasion or on the second. Ultimately a stage was reached when she could not keep it a secret since her mother discovered that she was pregnant. In these circumstances, she was compelled to disclose the true facts. Having regard to the facts and circumstances of the case, we do not find any infirmity in the reasoning of the High Court and the conclusion reached by it.

8. Much was sought to be made of the fact that the medical evidence did not disclose any feature which would conclusively prove the commission of rape. As we have observed earlier, the medical examination after about three months of the occurrence would hardly furnish any corroboration to the case of the prosecutrix.

9. The defence of the appellant is also vague and the High Court having considered the material on record came to the conclusion that his defence could not be accepted. We find no fault with the judgment of the High Court in reaching the conclusion that in the facts and circumstances of the case the prosecutrix was speaking the truth and the appellant was guilty of the offences alleged against him.

10. It was also submitted on behalf of the appellant that having regard to the passage of time and the fact that the appellant himself has a family to maintain, and also that the prosecutrix has since got married, the sentence imposed upon the appellant may be reduced.

11. This is not the usual case where such considerations may weigh with this Court in the matter of sentencing. The appellant was a school teacher on whom rests the responsibility of building the character of students. If a teacher is himself found guilty of such a heinous offence, no mitigating circumstances can be pleaded to reduce the sentence. Hence the prayer of the counsel for the appellant is rejected.

12. Having considered all aspects of the matter we find no reason to interfere with the concurrent findings of fact recorded by the Trial Court and the High Court. There is no merit in this appeal and the same is accordingly dismissed.