

**SUPREME COURT OF INDIA**

Usha

Vs.

State (Govt.of NCT of Delhi)

Crl.A.No.573 of 2007

(B.N. Agrawal and Harjit Singh Bedi JJ.)

05.08.2008

**ORDER**

Heard learned counsel for the parties.

The sole appellant of Criminal Appeal No.759 of 2007 was convicted by the Trial Court under Section 376 of the Indian Penal Code [for short, 'I.P.C.'] and sentenced to undergo rigorous imprisonment for a period of ten years and to pay fine of Rs.5,000/-; in default to undergo further imprisonment for a period of six months.

He was further convicted under Section 506 Part II I.P.C. and sentenced to undergo rigorous imprisonment for a three years and to pay fine of Rs.2,000/-; in default to undergo further imprisonment for a period of four months.

The sole appellant in Criminal Appeal No.573 of 2007 was convicted under Section 363 I.P.C. and sentenced to undergo rigorous imprisonment for a period of two and half years and to pay fine of Rs.500/-; in default to undergo further imprisonment for a period of two months. She was further convicted under Section 342 I.P.C. and sentenced to undergo rigorous imprisonment for a period of six months and to pay fine of Rs.200/-; in default to undergo imprisonment for a further period of one month. Sentences of both the accused persons were ordered to run concurrently. The High Court confirmed their convictions and sentences. Hence, these appeals by special leave.

In the present case, the occurrence is said to have taken place on 11th April, 1995 and 13th April, 1995, for which the First Information Report was lodged after about two months on 8th June, 1995. P.W.1 Sunita is the prosecutrix herself. Neither in the First Information Report nor in the evidence of the prosecutrix, P.W.1, it has been stated as to why the First Information Report was lodged after such an inordinate delay. Apart from this, from the evidence of P.W.14 (Dr. Usha Piple) it does not appear that the prosecutrix was subjected to sexual intercourse. In view of these facts, we are of the view that the prosecution has failed to prove its case beyond reasonable doubt and the High Court was not justified in upholding the convictions of the appellants of these appeals.

For the foregoing reasons, the appeals are allowed, convictions and sentences of the appellants are set aside and they are acquitted of the charges. The appellants, who are in custody, are directed to be released forthwith, if not required in connection with any other case.

