SUPREME COURT OF INDIA

Ashok Surajlal Uike

Vs.

State of Maharashtra

Crl.A.No.251 of 2006

(Harjit Singh Bedi and Chandramauli Kr.Prasad,JJ.,)

27.01.2011

ORDER

1. The facts of this case are as under:

> "1.1 The prosecutrix, P.W. 1, was studying in the Zila Parishad School at Mohali, District Gadchiroli. On the day of the incident, the accused met her and enquired as to how she had performed in the Mathematics paper in the examination. P.W. 1 replied that she had not done too well on which the accused advised her to bring the question paper to his house. Tukaram, P.W.2, P.W.1's father told her to go along with her younger brother Kapil, P.W.
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> 3. The two, accordingly, went to the house of the accused which was near the school. They found that the accused was sitting outside his house and he directed them to go towards the school and told Kapil, to go out and bring some snacks from the shop of Naitam. Kapil, accordingly, left for the shop whereafter the accused held the hand of the prosecutrix and pushed her towards the verandah of the school and raped her. The shouts of alarm raised by the prosecutrix could not heard by any one on account of the operating loud speakers all around as it was the day of the Sharda Devi festival. The prosecutrix thereafter returned home and disclosed what had happened to her parents. A report was, accordingly, lodged at the police station on the 11th of October, 1997. On the completion of investigation, the accused was charged for an offence punishable under Section 376 of the Indian Penal code.
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> 1.2The trial court relying on the evidence of P.W. 1, as supported by the circumstantial evidence of P.W. 2 and P.W. 3 and noticing that the medical evidence was uncertain as the Doctor had opined that it was not possible to give any opinion as to the rape, nevertheless held that a case of rape had been made out. A sentence of 7 years was, accordingly, imposed on the appellant. An appeal taken to the High Court was also dismissed. It is in this situation that the matter is before us after the grant of special leave."

2. Mr. Lambat, the learned counsel for the appellant, has raised several arguments before us during the course of the hearing. He has first pointed out that the First Information Report had been lodged belatedly as the offence had taken place on the 8th October, 1997 and the FIR had been lodged three days thereafter and that in any case the doctor's evidence did not support the commission of rape and at the worst (for the appellant) the matter fell under Section 354 of the IPC.

3. The learned counsel for the State of Maharashtra has, however, pointed out that there was no reason whatsoever to disbelieve the evidence of P.W. 1, P.W. 2 and P.W. 3 and in fact no suggestion had come from the defence as to why they would give a false story. It has also been pleaded that in the light of the completely acceptable evidence of P.W. 1 even if the doctor's evidence with regard to the commission of rape was slightly uncertain it would not in any manner detract from the prosecution story.

4. We have considered the arguments of the learned counsel. We are of the opinion that in a case of rape the fact that the FIR had been lodged after a little delay is of very little significance. There can be no doubt that an allegation of rape, and that too of a young child 15 years of age, is a matter of shame for the entire family and in many such cases the parents or even the prosecutrix are reluctant to go to the police to lodge a report and it is only when a situation particularly unpleasant arises for the prosecutrix that an FIR is lodged. We also see from the evidence that P.W. 2 had first gone to the Head Master of the school (in which the accused was a teacher) and he had advised him to wait for a few days to see if some thing could be done in the matter and it was only after having failed to get any reply from the Head Master that an FIR was lodged. This also explains the fact that the doctor had found nothing to suggest that rape had been committed and was not in a position to give any definite opinion on that account as the had incident happened on the 8th October, 1997 and the medical examination had been conducted on the 11th October, 1997, that is after three days. The doctor nevertheless found that there was a minor injury on the finger which was about four days old and that the hymen was also missing.

5.In the light of the very categoric statements of P.W. 1 as corraborated by P.W. 2 and P.W. 3 and in the light of the fact that no cause for false implication has been pointed out by the accused, we find no merit in the appeal. Dismissed. Accused is on bail. His bail bonds are cancelled. He should be taken into custody forthwith to undergo the remaining part of the sentence.