

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 595 OF 2004

LILIA @ RAM SWAROOP

Appellant (s)

VERSUS

STATE OF RAJASTHAN

Respondent(s)

(With appln(s) for exemption from filing O.T.)

Date: 06/10/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HARJIT SINGH BEDI
HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For Appellant(s)

Ms. Shobha,Adv.

For Respondent(s)

Dr. Manish Singhvi,Adv.
Mr. D.K.Devesh,Adv.
Mr. Sahil S.Chauhan,Adv.
Mr. Milind Kumar,Adv.

UPON hearing counsel the Court made the following
O R D E R

The appeal is allowed.

The bail bonds which the appellant had furnished,
shall stand discharged.

[SUMAN WADHWA]
COURT MASTER

[VINOD KULVI]
COURT MASTER

Signed order is placed on the file.
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 595 OF 2004

LILIA @ RAM SWAROOP

.. APPELLANT(S)

vs.

STATE OF RAJASTHAN

.. RESPONDENT(S)

O R D E R

This appeal is directed against the concurrent judgment of conviction recorded by the Sessions Court as well as by the High Court for an offence punishable under Section 376 of the IPC and a sentence of four years R.I.

The prosecution case is as under:

The prosecutrix, aged about 20 years on the date of the incident, and a married woman, left for the fields as about 9.30 a.m. on 21st June, 1984 to deliver lunch to her brother-in-law who was working in the field. While passing by she saw the appellant sitting on the road side. He tried to talk to her but when she told him to get away he caught her from the rear, pushed her down on the ground and thereafter raped her, despite her attempts at resistance during which her bangles had been broken and she also received cut injuries on that account. The incident was

also witnessed by Madan Lal-her brother-in-law. The prosecutrix was also subjected to a medical examination on

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the 23rd June, 1984 and the Doctor rendered her opinion that there were no signs of violence on her private parts, no oedema, and swelling, no scratches, no marks of semen or hair on her private parts or on her body. It was also observed that on an examination of the vagina dead sperms had been detected therein. The Doctor thus opined that there appeared to be no apparent signs of rape more particularly as the prosecutrix was a married woman and, therefore, habituated to sexual intercourse.

The Trial Court relying on the evidence of the prosecutrix and Madan Lal aforesaid rendered a judgment of conviction holding that there was no reason to disbelieve these two witnesses more particularly as the prosecutrix being the victim, was not likely to tell a lie. The defence of the appellant that the story projected by Madan Lal that he had been a mute spectator for about 15 minutes while the rape was being committed was improbable, was also said to be of no consequence. This judgment has been confirmed by the High Court in appeal. The matter is before us after the grant of special leave.

We have gone through the evidence in the matter as

also the reasons recorded by the Courts below.

Admittedly

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the prosecutrix was a married woman. She has given a story that as she was on her way to deliver lunch to Madan Lal (PW.4) she had been way laid by the appellant and he had then thrown her on the ground and raped her and that she had resisted and had got cut injuries as the glass bangles that she was wearing had broken during the commission of rape. The story projected by Madan Lal which is said to be corroborative of her statement is, however, difficult to believe. He says that he had seen the rape being committed for about fifteen minutes from a vantage point a short distance away but he had not made any attempt to rescue his sister-in-law. He further stated that one Inder Singh who was with him was also an eye witness. Admittedly, Inder Singh who could said to be an independent witness, has not been examined. Some corroboration could have been found in the medical evidence if it had supported the prosecution story. The Doctor however found no injury on the person of the prosecutrix though she was examined within two days of the incident. In the light of the fact that the story projected by the prosecution is on the face of it unacceptable and rather far-fetched and does not find corroboration from the medical evidence as well, on a consideration of the cumulative effect of all the circumstances, we are of the opinion that a case of rape has not been proved beyond reasonable doubt.

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We accordingly allow this appeal and set aside the conviction of the appellant. Bail bonds which the appellant had furnished shall stand discharged.

.....J.
(HARJIT SINGH BEDI)

.....J.
(CHANDRAMAULI KR. PRASAD)

New Delhi,
October 6, 2010.