

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1768 OF 2011
(Arising out of SLP(Crl.) No.1840/2010)

STATE OF RAJASTHAN Appellant(s)
:VERSUS:
BHARAT BHUSHAN PAREEK & ORS. Respondent(s)

WITH
CRIMINAL APPEAL NO. 1769 OF 2011
(Arising out of SLP(Crl.) No.1846/2010)

STATE OF RAJASTHAN Appellant(s)
:VERSUS:
BHARAT BHUSHAN PAREEK & ORS. Respondent(s)

AND
SPECIAL LEAVE PETITION (Crl.) No. 2332 /2011

BHOLU @ SURJEET YADAV Appellant(s)
:VERSUS:
STATE OF RAJASTHAN Respondent(s)

O R D E R

CRIMINAL APPEALS @ SLP(CRL) Nos.1840 & 1846 OF 2010:

1. Leave granted.
2. These appeals emanate from the judgment and orders dated 15.12.2009 passed by the learned Single Judge of the High Court of Judicature at Rajasthan in S.B. Criminal Miscellaneous Petition Nos.595 of 2009 and 599 of 2009.

2

3. This is a gang rape case. In the impugned judgment the High court has observed that ample opportunities were provided to the prosecution to produce the witnesses but the same have not been availed by the prosecution, on the contrary, the Special Public Prosecutor remained absent on several occasions and he appears to be not interested in completion of the trial of this case.

4. In the impugned judgment the High Court was

justified in observing that the conduct of the prosecution in the entire case has been reprehensible. Ordinarily this Court would not have interfered with the impugned judgment but for the fact that this is a very serious crime of gang rape, therefore, this unusual latitude is granted to the State. Otherwise order-sheet of the Trial Court clearly reveal the conduct of the prosecution in this case.

5. All the accused, including Rajesh Chaudhary, Harish Sihag and Narendra Sihag have already been released on bail.

3

6. In the facts and circumstances of this case, looking to the conduct of the State in the entire case, we direct the State of Rajasthan to pay Rs.2 lakhs as costs to the Rajasthan State Legal Services Authority within four weeks from today.

7. The concerned District & Sessions Judge is directed to conduct an inquiry as to why this matter has been proceeded in this manner and take action against erring officials/persons and submit a report to this Court within four months from today.

8. Dr. Manish Singhvi, learned Additional Advocate General appearing for the State of Rajasthan submitted that accused Nos.1 to 7 have already cross-examined the prosecutrix in this case. Accused Nos.8 to 12 have not cross-examined the prosecutrix.

9. Looking to the fact that this is a gang rape

case and in the larger interest of justice, we grant one more opportunity to the State of Rajasthan to lead evidence in this case including cross-

4

examination of the prosecutrix. Let the entire prosecution evidence be concluded positively on or before 30th November, 2011.

10. We direct the parties to appear before the Fast Track Court on 19th September, 2011.

11. The learned Presiding Judge of the Fast Track Court shall proceed to conduct the trial of this case on day-to-day basis and shall not grant unnecessary adjournments either on behalf of the State or any of the accused and conclude the trial as expeditiously as possible, in any event, within six months from the date of communication of this order.

12. In view of the order passed above, the impugned orders passed by the High Court are set aside and the appeals are disposed of accordingly.

S.L.P.(CRL.) No. 2332 OF 2011:

13. The petitioner would be at liberty to move the Trial Court for grant of bail. We request the Trial Court to conclude the trial in this case also as expeditiously as possible, in any event, within six months from the date of communication of this order.

5

14. The special leave petition is dismissed with the aforementioned observation.

.....J
(DALVEER BHANDARI)

.....J
(DEEPAK VERMA)

New Delhi;
September 9, 2011.

ITEM NO.58

COURT NO.4

SECTION II

6

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

Petition(s) for Special Leave to Appeal (Crl) No(s).1840/2010

(From the judgement and order dated 15/12/2009 in SBCRL No.595/
2009 of the HIGH COURT OF RAJASTHAN AT JAIPUR)

STATE OF RAJASTHAN

Petitioner(s)

VERSUS

BHARAT BHUSHAN PAREEK & ORS.

Respondent(s)

(With appln(s) for stay and office report)

WITH

SLP(Crl) NO. 1846 of 2010

(With appln(s) for stay and office report)

SLP(Crl) NO. 2332 of 2011

(With appln(s) for bail, permission to file addl. documents and
office report)

Date:09/09/2011 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DALVEER BHANDARI

HON'BLE MR. JUSTICE DEEPAK VERMA

For Petitioner(s) Dr. Manish singhvi,AAG
Mr. R. Gopalakrishnan,Adv.

Mr. Siddharth Luthra,Sr.Adv.
Mr. R. Anand Padmanabhan,Adv.
Mr. Y.K. Dhullar,Adv.
Mr. Shashi Bhushan Kumar,Adv.

For Respondent(s) Dr. Rajeev Dhawan,Sr.Adv.
Mr. Alok Sangwan,Adv.
Mr. Devashish Bharuka,Adv.

Mr. Sushil Kumar,Sr.Adv.
Mr. D.K. Sharma,Adv.
Mr. Gautam Godara,Adv.
Mr. Ravindra Keshavrao Adsure,Adv.

-2-

7

Mr. Puneet Jain,Adv.

Ms. Pratibha Jain,Adv.

Mr. Daya Krishan Sharma,Adv.

Mr. Irshad Ahmed,Adv.

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

SLP(Crl.) NOS.1840 & 1846 OF 2010:

Leave granted.

The State of Rajasthan is directed to pay Rs.2 lakhs as costs to the Rajsthan State Legal Services Authority, the concerned District & Sessions Judge is directed to conduct an inquiry and take action against the erring officials/persons, the State of Rajasthan is granted one more opportunity to lead evidence in this case, the impugned orders passed by the High Court are set aside and the appeals are disposed of in terms of the signed order.

Parties are directed to appear before the Fast Track Court on 19th September, 2011.

SLP(Crl.) NO.2332 OF 2011:

The special leave petition is dismissed in terms of the signed order.

(A.S. BISHT)
COURT MASTER

(SHASHI BALA VIJ)
ASSISTANT REGISTRAR

(Signed order is placed on the file)