

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. 1404/2000

(From the judgement and order dated 11/03/1999 in SBCRA 385/98
of The HIGH COURT OF JUDICTURE AT RAJASTHAN, JAIPUR BENCH)

STATE OF RAJASTHAN

Petitioner (s)

VERSUS

MADAN

Respondent (s)

(With Appln(s). for c/delay in filing SLP)

Date : 06/11/2000 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE R.C. LAHOTI
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Petitioner (s)

Ms. Sandhya Goswami, adv.

For Respondent (s)

Mr. Ravi Prakash Malhotra, adv. (AC)

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

.....L.....I.....T.....T.....T.....T.....T.....T....J
.SP2

Delay condoned.
Leave granted.

The appeal is allowed and the order of the High Court dated 11th of March, 1999 is set aside in terms of the signed order. The matter is remanded to the High Court for a fresh disposal in accordance with law. The High Court shall admit the appeal against acquittal to hearing and dispose it of on merits as expeditiously as possible.

.SP1

(Ajay Kr. Jain)
Court Master

(Prem Prakash)
Court Master

(Signed order is placed on the file)

.PA
.PL55

.....L.....I.....T.....T.....T.....T.....T.....T....J

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 939 OF 2000@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC
(Arising out of SLP(Crl.) No. 1404 of 2000)

State of Rajasthan

....Appellant

Versus

Madan

....Respondent

O R D E R@@
CCCCCCCC

.SP2

.....L.....I.....T.....T.....T.....T.....T.....J

Delay condoned.
Leave granted.

The respondent was tried for an offence under Section 376 of the Indian Penal Code on the allegation of having committed rape on a minor girl aged about 11 years. The occurrence took place on 2nd of March, 1996. Vide judgment and order dated 28th June, 1997 the Trial Court recorded an order of acquittal against the respondent. The appeal filed against acquittal by the State was dismissed by the High Court on 11th of March, 1999 on the ground of "inordinate delay". The delay in filing appeal before the High Court, as we notice from the record, was only of 31 days.

We would not like to express any opinion on the merits of the case, but suffice it to notice that a perusal of the medical evidence as also the testimony of the prosecutrix, did warrant the High Court to examine the case on merits and not to dismiss it on the ground of delay of 31 days only.

....2/-

- 2 -

Keeping in view the unfortunate rise in crime against women and particularly minor children, the Courts owe an obligation to the society to examine such cases with utmost sensitivity. In our opinion, the order of the High Court dismissing the appeal against acquittal on the ground of inordinate delay cannot be sustained, in the peculiar facts and circumstances of this case.

We, therefore, allow this appeal and set aside the order of the High Court dated 11th of March, 1999 and remand the matter to the High Court for a fresh disposal in accordance with law. The High Court shall admit the appeal against acquittal to hearing and dispose it of on merits as expeditiously as possible.

.SP1

.....CJI

.....J.
(R. C. LAHOTI)

.....J.
(BRIJESH KUMAR)

New Delhi
November 06, 2000.