

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1519 OF 2010

Sulendar Sahu @ Surendar Sahu

.....Appellant

VERSUS

State of Jharkhand

.....Respondent

O R D E R

1. This criminal appeal has been preferred against the impugned judgment and order dated 2.4.2009 passed by the High Court of Jharkhand at Ranchi in Criminal Appeal No. 400 of 2001 by way of which, it has affirmed the judgment and order dated 6.9.2001 of the IVth Addl. Judicial Commissioner, Ranchi in Sessions Trial No. 498 of 1999, wherein the appellant stood convicted for the offence punishable under Section 376 of the Indian Penal Code, 1860 (hereinafter referred to as 'the IPC'), and had been awarded the sentence to undergo rigorous imprisonment for 10 years.

2. The facts and circumstances giving rise to this appeal are that:

A. An FIR was lodged on 12.3.1999 against the appellant alleging that he had been committed rape upon the prosecutrix Leela Kumari from 8.10.1998 to 10.1.1999 and in consequence thereof, the prosecutrix became pregnant. Further, he administered certain medicines, by the affect of which, she aborted the child.

B. The police recorded the statement of the witnesses under Section 161 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Cr.P.C. '), and also got recorded the statement of prosecutrix Leela Kumari, aged 15 years, before the Magistrate on 1.4.1999 under Section 164 Cr.P.C.

C. After completion of the investigation, chargesheet was filed against the appellant under Sections 376, 313 and 420 IPC on which the cognizance was taken. The appellant was tried. After conclusion of the trial, the trial court convicted the appellant vide judgment and order dated 6.9.2001 imposing the punishment under Section 376 IPC as referred to hereinabove.

D. The appellant preferred the Criminal Appeal No. 400 of 2001 before the High Court of Jharkhand at Ranchi which has been dismissed vide impugned judgment and order dated 2.4.2001.
Hence, this appeal.

3. We have heard Shri D.N. Goburdhan, learned counsel appearing on behalf of the appellant and Shri Jagesh Gaurav, learned counsel appearing on behalf of the State of Jharkhand and perused the record.

4. Jivdhan Prasad (PW.14), the Head Master and Kishore Minz, Assistant Teacher of Bargain School, proved the school register and school leaving certificate showing the date of birth of the prosecutrix as 15.5.1984 and the said certificate was marked as Ex.5. They also proved the register on the basis of which the certificate had been issued. The register itself had been marked as Ex.6. Therefore, on the date of occurrence of the first incident, as per the said documents, exact age of the prosecutrix was 14 years 4 months and 13 days, i.e., less than 16 years.

5. The prosecution examined 11 witnesses to prove its case including Leela Kumari, prosecutrix as PW.8. She has stated that on the date of recording her statement, i.e., 9.3.2000, she was about 16 years of age. On 8.10.1998 at about 10.30 A.M., the appellant came to her house and asked for a glass of water, and at that time, nobody was present in her house. When she went inside the house, the appellant came from behind and caught hold of her. She wanted to make hue and cry but the appellant shut her mouth and brought out a knife and threatened her that he would kill her. Thereafter, the appellant put on the cot and after opening her clothes, committed rape upon her. After committing the rape, the appellant promised to marry her. Out of fear and on the promise of marriage, she did not disclose the occurrence to anyone. After few days, finding the prosecutrix alone in her house, the appellant again committed rape upon her and again promised to marry her very soon. She became pregnant and, subsequently, the appellant gave her certain medicines, upon which, her pregnancy stood terminated. However, she told about the said occurrence to her parents and then they called a Panchayat in the village wherein, the appellant had admitted his guilt and promised to marry her. Again the Panchayat was called in 10.1.1999, however, the appellant refused to marry the prosecutrix and, therefore, the Panchayat took the decision to lodge the FIR against him. The prosecutrix also proved the school leaving certificate. She had faced a detailed cross-examination, however, she answered that at one time, the appellant committed rape on the point of knife and, subsequently, on the false promise of marriage. She denied that she had consented for the same.

6. The evidence of the prosecutrix stood corroborated by the depositions of her parents. Fulmani Devi, mother, (PW.6) and Lakhan Sahu, father, (PW.7), deposed that her age was about 15 years at the time of incident, and further deposed that after knowing about the incident, they had called a Panchayat wherein the appellant had admitted his guilt and firstly, promised to marry the prosecutrix but, subsequently, he refused to marry her and that is why, the case was lodged.

7. Lakhan Sahu (PW.7) corroborated the evidence of the prosecutrix and further supported the version of calling of the Panchayat, wherein the appellant had admitted his guilt and first time, promised to marry her but, subsequently, refused to marry.

8. Basudeo Sahu (PW.1), Ram Prit Mahato (PW.2), and Kali Charan Sahu (PW.3), independent witnesses, also supported the version of the prosecution and also proved the calling of Panchayat on 10.3.1999 wherein the accused had admitted his guilt but later on, refused to marry her.

9. After going through the same, we do not find any cogent reason to interfere with the above findings of fact. The appeal lacks merit and is, accordingly, dismissed.

.....J.
(Dr. B.S. CHAUHAN)

.....J.
(S.A. BOBDE)

NEW DELHI;
July 09, 2013.

ITEM NO.101

Court No.6

SECTION IIA

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). 1519 OF 2010

SULENDER SAHU @ SURENDAR SAHU

Appellant (s)

VERSUS

STATE OF JHARKHAND

Respondent(s)

Date: 09/07/2013 This Appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN
HON'BLE MR. JUSTICE S.A. BOBDE

For Appellant(s)

Mr. D.N. Goburdhan, Adv.
Mr. Rajesh Ranjan, Adv.
Mr. P.Bagchi, Adv.

For Respondent(s)

Mr. Gopal Prasad, Adv.
Mr. Jayesh Gaurav, Adv.

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

The appeal is dismissed in terms of the signed order.

	(Anita Malhotra)		(M.S. NEGI)	
Sr. PA		Court Master		

(Signed order is placed on the file.)