

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1167/2012

DEBENDRA PAIKAR

APPELLANT(S)

VERSUS

STATE OF WEST BENGAL

RESPONDENT(S)

O R D E R

1. The appellant stood charged and convicted for the offence punishable under Sections 366 and 376 of the Indian Penal Code, 1860 (hereinafter referred to as, 'the IPC') by the Court of Sessions. The appeal filed by the appellant was dismissed by the High Court and hence, the present appeal.

2. The case of the prosecution in a nutshell is that the appellant took the victim girl on 08.11.1996 and thereafter she was rescued by PW11. The medical examination was done three months thereafter. The FIR was registered at the instance of PW1 on 15.11.1996. Before the Trial Court, 14 witnesses have been examined on behalf of the prosecution.

3. The learned counsel appearing for the appellant submitted that the appellant was 24 years old imparting private tuition to the victim girl who was 18 years old. It is a case of love affair as could be seen from Ex. A - a letter written by the victim girl - expressing her love for him. PW11 who is said to have secured the victim girl did not speak in tune with the prosecution version. There is a material discrepancy in the evidence of PW1 and PW2. The victim girl, who deposed as PW9, though did not deny Ex.A, has merely stated that it was obtained by force and duress. The said letter was written much earlier to the occurrence. Both the Courts below have not taken into consideration the aforesaid facts. Incidentally, it is submitted that both the victim girl and the appellant are married to other persons.

4. The learned Counsel appearing for the State submitted that it is a case of concurrent finding by both the courts below. Though there are discrepancies available, primacy will have to be given to the statement of the victim girl.

5. We find considerable force in the submissions made by learned counsel appearing for the appellant. The material witness before us is PW11. He has not stated anything about

the involvement of the appellant qua the charges levied against him. Medical examination was done months thereafter, which did not indicate any forced relationship. PW9 has also not denied or disputed the writing of Ex.A which we have seen. As stated, the said letter was written by her even much prior to the date of occurrence. PW9 has not disputed the date of the letter written by her. The finding of the Trial Court to the contrary cannot be sustained in the eyes of law. Both the Courts below have completely misread the material available on record. Though PW9 has stated that she was taken to one of the relatives of the appellant and thereafter to the father-in-law of the mess owner, they have not been examined. PW11, who is said to have secured the victim girl, has completely discarded the case of the prosecution. All these factors have not been looked into in the correct perspective by both the Courts below.

6. In such view of the matter, we have no hesitation in setting aside the conviction and sentence rendered by both the Courts below.

7. Accordingly, the judgment and order passed by the High Court is set aside. The appeal is, accordingly, allowed. The bail bond stands discharged.

Pending applications shall stand disposed of.

.....J.  
[M.M. SUNDRESH]

.....J.  
[S.V.N. BHATTI]

NEW DELHI;  
JANUARY 17, 2024

ITEM NO.102

COURT NO.13

SECTION II-B

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CRIMINAL APPEAL NO(S). 1167/2012

DEBENDRA PAIKAR

Appellant(s)

VERSUS

STATE OF WEST BENGAL

Respondent(s)

Date : 17-01-2024 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.M. SUNDRESH  
HON'BLE MR. JUSTICE S.V.N. BHATTI

For Appellant(s) Mr. Pijush K. Roy, Adv.  
Mr. Pritthish Roy, Adv.  
Ms. Kakali Roy, Adv.  
Ms. Astha Dhawan, Adv.  
Mr. Mithilesh Kumar Singh, AOR

For Respondent(s) Mr. Srisatya Mohanty, Adv.  
Mr. Sanjeev Kaushik, Adv.  
Ms. Anvita Dwivedi, Adv.  
Ms. Astha Sharma, AOR

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

The appeal stands allowed in terms of the signed order  
which is placed on the file.

Pending application(s), if any, shall stand disposed of.

(KAVITA PAHUJA)  
COURT MASTER (SH)

(POONAM VAID)  
COURT MASTER (NSH)