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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 884 OF 2015
TEKAN ALIAS TEKRAM â- |. APPELLANT(S)
VERSUS

STATE OF MADHYA PRADESH
(NOW CHHATTISGARH) â- | RESPONDENT(S)

J U D G M E N T

M.Y. EQBAL, J.

Aggrieved by the judgment and order dated 16 th
January,

2014 passed by the High Court of Chhattisgarh in Criminal
Appeal No. 2554 of 1997 affirming the judgment dated
29.11.1997 passed by the Sixth Additional Sessions Judge,
Durg, in Sessions Trial No. 342 of 1996, whereby the appellant
has been convicted under Section 376 IPC and sentenced to 7
years R.I., the accused-appellant has preferred this appeal
challenging the conviction and sentence.

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2. This is a case where the prosecutrix, who is blind and an
illiterate girl, was subjected to sexual intercourse on the
promise of marriage.

3. The case of the prosecution in brief is that the
prosecutrix was residing with her father at Village Nandini
Khundini. Her mother had left and married somewhere else
and, thereafter, the prosecutrix was living with her three
brothers Nand Kumar, Iswari and Baldau. Along with brother
of prosecutrix Iswari, the accused Tikendra was also studying.
Because of the friendship, the accused used to visit the house
of the prosecutrix and was in conversation with her. It is the
case of the prosecution that when the prosecutrix used to
remain alone in her house, the accused used to visit her and
expressed her that he is in love with her. Further, the case of
the prosecution is that about one year before the incident, the
accused came to the house of the prosecutrix when she was
alone. Thereafter, the accused had told her that he is in love
with her and will marry her and wanted to commit sexual
intercourse with her. The prosecutrix tried to avoid it since

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she was a blind girl, but the prosecutrix was told by the
accused that he will marry her and will give her all support
and, therefore, she submitted herself to the accused.
Thereafter, the accused committed sexual intercourse with
her. It is the case of the prosecution that whenever the
prosecutrix remained alone in the house, the accused used to
come and commit sexual intercourse with her. By such
course of action, when the prosecutrix became pregnant, the
prosecutrix told the accused to marry her. At that point of
time, the accused stopped visiting the house of the
prosecutrix. Subsequent to it, the incident was disclosed to
the father of the prosecutrix who called the meeting of the
Panchayat in the Village. In the Panchayat, the accused was
also called. It is the case of the prosecution that in the
Panchayat, the accused admitted the fact that he had
committed sexual intercourse with the prosecutrix but refused
to marry her and left the Panchayat. It was the specific case of
prosecution that though the prosecutrix was blind, she could
recognize the accused person by his voice and by touch.

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4. It reveals that the matter was investigated by the police
and the prosecutrix was also subjected to medical examination
and finally a charge-sheet was filed under Section 376 IPC.
Number of witnesses was examined from the prosecution side
including the Doctor who submitted the medical examination
report (Ex.P2 and P3) and the radiologist who obtained X-Ray

of the prosecutrix and gave his report (Ex. P4) confirming the age of the prosecutrix as approximately 18 years. The prosecutrix was also examined as PW-1, who narrated the entire incident and the manner in which she was subjected to sexual abuse. In her evidence, she has categorically stated that she is blind but she could recognize a person by his voice. She has also stated that the accused-appellant had told her that he will keep her. She has further stated that the accused committed rape on her and, thereafter, whenever she used to stay alone in the house the accused-appellant used to come and committed sexual intercourse with her on the pretext of marriage. It has further come in evidence that when the prosecutrix became pregnant the accused stopped visiting her

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house. She has further stated that after the incident was disclosed by her the accused was called before the Panchayat. 5. The trial court after appreciating the entire evidence including the evidence of the Doctor and the persons who attended the Panchayat and the medical reports, recorded a finding and held that the prosecution was able to prove the guilt of the accused-appellant. Accordingly, the accused was convicted under Section 376 IPC and was sentenced to 7 years rigorous imprisonment.

6. As against the judgment of the trial court, the appellant filed an appeal before the High Court being Criminal Appeal No.2554 of 1997. The High Court examined the facts and re-appreciated the entire evidence adduced from the side of the prosecution and recorded an independent finding and affirmed the judgment of conviction passed by the trial court.

7. We have heard learned counsel for the appellant and the respondent State. We have also meticulously examined the finding recorded by the two courts on the basis of the evidence

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brought on record by the prosecution side. After giving our anxious consideration to the matter we are of the definite view that the prosecution has been able to prove the guilt of the appellant beyond all reasonable doubt. We, therefore, do not find any infirmity or illegality in the judgment passed by the two courts. Hence, the judgment of conviction must sustain in law.

8. Now the question that arises for consideration is as to whether in the facts and circumstances of the case the prosecutrix is entitled to victim compensation and, if so, to what extent? During the course of hearing, this Court by order dated 01.07.2015 directed the learned counsel appearing for the respondent-State to file a copy of the Victim Compensation Scheme applicable in the State of Chhattisgarh and to inquire about the financial status of the victim, her brothers and also of the accused-appellant. Pursuant to the aforesaid order, learned counsel for the State has filed an additional affidavit giving details of the inquiries made to ascertain the financial status of the victim and the accused

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and also has placed on record a copy of Notification/ Compensation Scheme.

9. From the inquiry, it reveals that the victim (now aged about 37 years) lives alone in Village Nandini Kundini, District- Durg, Chhattisgarh. She is unmarried and lives in a kuccha house. She has two brothers who lives separately from her. One of the brothers Ishwari Sahu lives in a different village Dhour (distance 12 kms from Nandini Kundini). Another brother Baldau Sahu lives in district Bhila (distance 22 kms from Nandini Kundini) and works as a daily-labourer. She receives a pension of Rs.300/- per month from the State being a person with disability. She is also a BPL card holder which entitles her 35kg rice per month at the rate of Rs.1/-

per kg. and free salt. The financial status of victim's brothers is also not good.

10. It further reveals from the inquiry regarding financial status of the accused that the accused lives in the same village i.e. Nandini Kundini where the victim lives. He is married and

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has four children. Mother of the accused also lives with him. He has inherited about 2 acres of land being ancestral property which is also the source of his livelihood. Further, the wife of the accused is a blue card holder which entitles the family to receive 35 kg. rice per month at the rate of Rs.2/- per kg. The accused lives in a pucca house.

11. Learned counsel for the State submitted that the State of Chhattisgarh has notified Victim Compensation Scheme under Section 357-A, Cr.P.C for providing fund for the purpose of compensation to the victim or his dependents who has have suffered loss or injury as a result of crime and who require rehabilitation. Relevant part of the Schedule appended to the aforesaid notification is extracted herein for easy reference.

SCHEDULE

S.No

. Details of Loss or Injury Maximum Limit of Compensation

4. Rape of Minor 50,000/-

5. Rape 25,000/-

6. Rehabilitation 20,000/-

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12. Before dealing with the present matter it is pertinent to mention briefly the amount payable to the rape victim and for rehabilitation under Victim Compensation Schemes notified by the other State Governments and Union Territories under Section 357A of the Cr.P.C., 1973.

Sr.no

. State/ UT Details of Loss or Injury Maximum Limit of Compensation(Rs.)

1. Arunachal

Pradesh Rape 50,000/-

Rehabilitation 20,000/-

3.

Assam Rape 75,000/-

Rape of Minor/Gang Rape 1,00,000/-

5. Bihar Rape 50,000/-

6. Delhi Rape 3,00,000/-

Rehabilitation 20,000/-

8. Goa In case of injury causing,

severe mental agony to

women and child (eg. Rape

cases etc.) 10,00,000/-

(Ten Lakh)

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Gujarat Rape 1,00,000/-

Rehabilitation 50,000/-

11. Haryana Rape 3,00,000/-

Medical expenses on

account of injury 15,000/-

13. Himachal

Pradesh Rape 50,000/-

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14. Jammu &

Kashmir Rape of minor or rape in police custody 1,00,000/-

Rape 50,000/-

16. Karnataka Rape of minor 3,00,000/-

Rape other than minor 1,50,000/-

18. Kerala

(50 % extra if

the victim is
14 years or
less) Rape 3,00,000/-
Rehabilitation 1,00,000/-
20. Maharashtra No amount for the offence of
rape Nil
21. Manipur Rape of Minor 30,000/-
Rape 20,000/-
Rehabilitation 20,000/-
24. Nagaland Rape of Minor 1,00,000/-
Rape 50,000/-
Rehabilitation 50,000/-
27. Odisha Loss or injury causing
severe mental agony to
women and child victims in
case like Human Trafficking 10,000/-
28. Rajasthan Rape of Minor 3,00,000/-
Rape 2,00,000/-
Rehabilitation 1,00,000/-
31. Sikkim Rape 50,000/-
Rehabilitation 30,000/-
33. Tripura Rape 50,000/- of which
Rs.5,000/- shall be
paid after preliminary
verification of the
complaint and the
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balance amount shall
be sanctioned on the
filling of charge sheet.

34. Uttar
Pradesh Rape 2,00,000/-
35. Uttarakhand Rape of Minor 2,50,000/-
Rape 2,00,000/-
Rehabilitation in case of
rape victim 1,00,000/-
38. West Bengal Rape of Minor 30,000/-
Rape 20,000/-
Rehabilitation 20,000/-
41. UT of
Chandigarh Rape 3,00,000/-
Rehabilitation 20,000/-
43. UT of Dadar
and Nagar
Haveli Rape 3,00,000/-
Rehabilitation 20,000/-
45. UT of Daman Rape 3,00,000/-
Rehabilitation 20,000/-
47. UT of
Puducherry Rape 3,00,000/-
Rehabilitation 20,000/-

13. Perusal of the aforesaid victim compensation schemes of
different States and the Union Territories, it is clear that no
uniform practice is being followed in providing compensation
to the rape victim for the offence and for her rehabilitation.

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This practice of giving different amount ranging from
Rs.20,000/- to Rs.10,00,000/- as compensation for the
offence of rape under section 357A needs to be introspected by
all the States and the Union Territories. They should consider
and formulate a uniform scheme specially for the rape victims
in the light of the scheme framed in the State of Goa which
has decided to give compensation up to Rs.10,00,000/-.

14. While going through different schemes for relief and
rehabilitation of victims of rape, we have also come across one
Scheme made by the National Commission of Women (NCW)

on the direction of this court in Delhi Domestic Working Women's Forum vs. Union of India and Ors. [Writ Petition (Crl) No. 362/93], whereby this Court inter alia had directed the National Commission for Women to evolve a scheme so as to wipe out the tears of unfortunate victims of rape. This scheme has been revised by the NCW on 15 th

April 2010. The application under this scheme will be in addition to any application that may be made under Section 357, 357A of the Code of Criminal Procedure as provided in paragraph 22 of the Scheme. Under this scheme maximum of Rs.3,00,000/- (Three

lakhs) can be given to the victim of the rape for relief and rehabilitation in special cases like the present case where the offence is against an handicapped woman who required specialized treatment and care.

15. Coming to the present case in hand, victim being physically disadvantaged, she was already in a socially disadvantaged position which was exploited maliciously by the accused for his own ill intentions to commit fraud upon her and rape her in the garb of promised marriage which has put the victim in a doubly disadvantaged situation and after the waiting of many years it has worsened. It would not be possible for the victim to approach the National Commission for Women and follow up for relief and rehabilitation. Accordingly the victim, who has already suffered a lot since the day of the crime till now, needs a special rehabilitation scheme.

16. Mr. Atul Jha, learned counsel appearing for the Respondent-State, on instructions received from the Superintendent of Police, District Durg, submitted that for the rehabilitation of the victim the Home Secretary, Department of

Home has taken decision to keep the victim in Nari Niketan, to provide her food, clothes and shelter and the monthly pension of Rs.300/- throughout her life. For the said rehabilitation programme, the State has to incur about Rs.8,000/- to Rs.10,000/- per month.

17. Indisputably, no amount of money can restore the dignity and confidence that the accused took away from the victim. No amount of money can erase the trauma and grief the victim suffers. This aid can be crucial with aftermath of crime.

18. The victim, being in a vulnerable position and who is not being taken care of by anyone and having no family to support her either emotionally or economically, we are not ordering the respondent-State to give her any lump sum amount as compensation for rehabilitation as she is not in a position to keep and manage the lump sum amount. From the records, it is evident that no one is taking care of her and she is living alone in her Village. Accordingly, we in the special facts of this case are directing the respondent-State to pay Rs.8,000/- per month till her life time, treating the same to be an interest fetched on a fixed deposit of Rs.10,00,000/-. By this, the

State will not be required to pay any lump sum amount to the victim and this will also be in the interest of the victim.

19. In the result, we dismiss the appeal having no merit and issue the following directions:-

1) All the States and Union Territories shall make all endeavour to formulate a uniform scheme for providing victim compensation in respect of rape/sexual exploitation with the physically handicapped women as required under the law taking into consideration the scheme framed by the State of Goa for rape victim compensation;

2) So far as this case is concerned, the respondent-State shall pay a sum of Rs.8,000/- per month as victim compensation to the victim who is physically handicapped, i.e. blind, till her life time.

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(M.Y.Eqbal)

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(Arun Mishra)

New Delhi

February 11, 2016

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ITEM NO.1A COURT NO.8 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). 884/2015

TEKAN ALIAS TEKRAM

Appellant(s)

VERSUS

STATE OF M.P (NOW CHHATTISGARH)

Respondent(s)

Date : 11/02/2016 This appeal was called on for pronouncement of judgment today.

For Appellant(s)

Mr. D. Bharat Kumar, Adv.

Mr. T. Baskar Gowtham, Adv.

Mr. Vishal Arun,Adv.

For Respondent(s)

Mr. Atul Jha, adv.

Mr. Sandeep Jha, Adv.

Mr. Dharmendra Kumar Sinha,Adv.

Hon'ble Mr. Justice M.Y. Eqbal pronounced the judgment of the Bench comprising His Lordship and Hon'ble Mr. Justice Arun Mishra.

We dismiss the appeal having no merit and issue the following directions :-

1) All the States and Union Territories shall make all endeavour to formulate a uniform scheme for providing victim compensation in respect of rape/sexual exploitation with the physically handicapped women as required under the law taking into consideration the scheme framed by the State of Goa for rape victim compensation;

2. So far as this case is concerned, the respondent-State shall pay a sum of Rs.8,000/- per month as victim compensation to the victim

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who is physically handicapped, i.e. blind, till her life time.

[INDU POKHRIYAL]

[SUKHBIR PAUL KAUR]

COURT MASTER A.R.-CUM-P.S.

(Signed reportable judgment is placed on the file)

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