

(2017) 07 RAJ CK 0017
In the Rajasthan High Court
Case No : 815 of 2016

Durga Lal son of Narayan, By caste Bheel	APPELLANT
Vs	
State Of Rajasthan Through Pp	RESPONDENT

Date of Decision : 07-07-2017

Acts Referred:

[Indian Penal Code, 1860](#), [Section 376](#),
[Section 506](#) - Punishment for rape - Punishment for
criminal ,intimidation

Citation : (2017) 07 RAJ CK 0017

Hon'ble Judges : Deepak Maheshwari

Bench : SINGLE BENCH

Advocate : Gaurav Gupta, N.S. Dhakad

Final Decision : Disposed

Judgement

1. Heard learned counsel for the accused-appellant and also learned Public Prosecutor and perused the material available on record.
2. The accused-appellant has been convicted for the offences punishable under Sections 376 & 506 IPC and has been sentenced for the maximum period of seven years rigorous imprisonment with a fine of Rs.20,000/-.
3. Learned counsel for the accused-appellant submits that the accused is in custody since 20.11.2014. There is material contradiction in the statements of the prosecutrix PW-4 and FIR has been lodged with the delay of four days. It is admitted fact

that there was previous enmity between father of the prosecutrix and father of the accused. The medical examination report of the prosecutrix (Ex.-4) does not depict any evidence of recent sexual intercourse. FSL Report (Ex.-P/10) mentions that semen could not be detected in vaginal swab of the prosecutrix. In the background of above circumstances, learned counsel submits that the sentence awarded to the accused-appellant may kindly be suspended.

4. Learned Public Prosecutor has vehemently opposed the prayer on the basis of observations made in the judgment impugned as also on the basis of prosecutrix statement available on record.

5. Having regard to the facts and circumstances of the case, more particularly, the fact that the accused is in custody since 20.11.2014 and there is likelihood that the appeal will not be disposed of on merits in near future, this Court feels inclined to suspend the sentence awarded to the accused-appellant till disposal of the appeal.

6. It is accordingly ordered that the sentence awarded by the learned Trial Court to the accused-appellant in Sessions Case No. 2/2015 shall remain suspended till the final disposal of the appeal; provided he executes a personal bond in the sum of Rs. 50,000/- along with two sureties in the sum of Rs. 25,000/-each to the satisfaction of the trial court for his appearance on 27.7.2017 and as and when called upon to do so before this Court along with following conditions:-

- (1) That the accused-appellant shall inform this court his complete and new address, whenever he change his address during the pendency of appeal.
- (2) The accused-appellant shall appear before learned trial court during the month of January in every year till the appeal is disposed off.

(3) The sureties will also undertake to ensure compliance of above two conditions and will also inform his new and correct address, whenever he change his place of residence.

7. The learned trial court shall keep the record of attendance of the accused-appellant in a separate file. Such file be registered as Criminal Misc. Case related to the Sessions Case in which the accused-appellant was tried and convicted. A copy of this order shall also be placed in that file for ready reference. Criminal misc. file shall not be taken into account for statistical purpose relating to pendency and disposal of cases in the trial court. In case the accused-appellant does not appear before the trial court, the learned trial judge shall report the matter to the High Court for cancellation of bail.

8. Accordingly, the application for suspension of sentence is disposed off.