
(2001) 06 RAJ CK 0013

In the Rajasthan High Court

Case No : Criminal Appeal No's. 356, 376, 377 and 521 of 1998

Kanhaiya Lal and Others

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 28-06-2001

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313, 357
Penal Code, 1860 (IPC) — Section 120B, 147, 149, 292, 302

Citation : (2002) 2 WLN 79

Hon'ble Judges : Khem Chand Sharma, J

Bench : Single Bench

Judgement

Khem Chand Sharma, J.—This case is one of the glaring examples of sexual exploitation of a teenaged helpless village girl below 16 years of age by able bodied youth.

2. These four appeals by the accused appellants are directed against the judgment and order dated 15.4.1998, by which the learned Additional Sessions Judge (Special Judge, Women Atrocities and Dowry Cases) has convicted and sentenced the accused appellants in the following manner: I. Accused appellants Ramjilal, Kanhaiyalal, Hemraj and Radhey Shyam - under Sections 376 and 376/120-B IPC: Each to undergo 7 years RI with a fine of Rs. 500/- in default of payment of fine, to further undergo 3 months RI on the first count and on the other count, to undergo 7 years RI with fine of Rs. 500/-, in default thereof, to further undergo 3 months R.I. II. Accused appellants Radhey Shyam and Ram Kishan - u/s 292 IPC: Each to undergo one year RI with a fine of Rs. 500/- each, in default thereof, to further undergo 3 months RI. The sentences were to run concurrently.

3. According to the prosecution, PW-4 Kumari Manju lodged a written report Ex.P.10 at Police Station Fagi (Jaipur) on 24.10.1996 alleging therein that Radhey Shyam @ Raju, Ramji Lal Bairwa, Kanhaiyalal and Hemraj have been committing rape on her for last number of days. These persons told her brother Kamlesh @

Kalu to call her and on her refusal to go, these persons gave beating to Kamlesh and because of their fear, he left for Jaipur. The persons are still behind her and they are bent upon to lower down her prestige on her refusal to accede to their desire. She further alleged that these persons with the help of her photographs with Radhey Shyam are trying to blackmail her and used to threaten her that in case of her refusal to fulfill their sexual lust they will make her photographs public and will defame her. She felt endanger of her family members by the accused persons and that they have been harassing her for last one year. Having compelled, she narrated the happening to her father Kishan Lal and maternal uncles Shri Ram Chandra, Shri Ram Narain and Shri Ramlal and took them to the police station for lodging the report.

4. On the basis of above report, police registered a case against the accused persons for offence under Sections 376, 341, 323, 384, 292 and 120-B IPC vide FIR No. 297/1996, Ex.P.11 and proceeded to investigate the case.

5. During investigation, the police inspected the site and prepared site plan Ex.P.12, and also prepared the site plan of the shop of Ram Kishan photographer. The police got the prosecutrix medically examined, the report of which is Ex.P.14. The injuries of Kamlesh were also examined vide Ex.P.1. The police arrested the accused persons vide arrest memos Ex.P.27 to Ex.P.29 and Ex.P.32 and 33. The accused gave information separately about the place where they committed rape on the prosecutrix and the police accordingly prepared memos of information Ex.P.34 and P.35 and Ex.P.37 and 38 and inspected the site and prepared the memos Ex.P.23 to 25 and Ex.P.39. Accused Radhey Shyam also gave information Ex.P.36 about the place where he kept the photographs. The police recovered the photographs Ex.P.6 to Ex.P.9 from the possession of accused Radhey Shyam vide memo Ex.P.42. The police also took in possession a camera vide Ex.P.41 and prepared a site plan Ex.P.37 of the place of recovery. The police also recorded the statements of the witnesses and collected documents in proof of age of the prosecutrix, viz., school admission register Ex.P. 44-A, transfer certificate Ex.P.45-A, application for admission Ex.P.46-A and a copy of the mark-sheet Ex.P.47-A.

6. After completion of investigation, the police filed a charge sheet against the accused appellants for offence u/s 376, 341, 323, 384, 292 and 120-B IPC in the Court of learned judicial Magistrate, Dudu, who in turn, committed the case to the Court of Sessions.

7. On the basis of the material on record and after hearing the arguments of counsel for the accused the Public Prosecutor, the learned trial Court framed charged against the accused appellants Hemraj, Kanhaiyalal and Ramji Lal u/s 376 and 376/120-B I.P.C. against appellant Radhey Shyam u/s 376, 376/120B, 341 and 292 I.P.C. and against accused appellant Ram Kishan under Sections 376/120-B and 292 I.P.C..

8. During trial, the prosecution in support of its case examined as many as 14 witnesses and exhibited number of documents. Thereafter, the accused were

examined u/s 313 Cr.P.C. to enable them to explain personally the circumstances existing against them. The accused also examined DW-1, DW-2, DW-3 and DW 4 in their defence.

9. The trial of the case resulted into conviction and sentence of the accused appellants as mentioned hereinabove. Hence, the present appeals by the accused appellants.

10. The trial Court found the prosecution case, as alleged, proved against the accused appellants. In the opinion of the trial Judge, the testimony of the prosecutrix inspired confidence. It was corroborated by other evidence in material particulars. The prosecutrix was held to be below 16 years of age at the time of commission of crime. Accordingly, the accused appellants were found guilty of the offences punishable u/s 376, 376/120-B and 292 I.P.C. For the purposes of ascertaining the age, the school record of the prosecutrix was produced. After examining the school record, the trial court opined that the age of the prosecutrix was 15 years.

11. The learned Counsel for the accused appellants have vehemently attacked the findings arrived at by the trial Court and submitted that none of them was sustainable and none could be a reason for believing the prosecution case and hence the conviction deserves to be set aside. The counsel has further assailed the conviction on the ground of delay of about a year in lodging the first information report, which throws serious doubts on the version of the prosecutrix and is fatal to the prosecution case.

12. On the other hand, learned Public Prosecutor has supported the judgment of the trial court and submitted that the findings recorded by it do not call for any interference.

13. The law is well settled on the point that the prosecutrix complaining of having been a victim of the offence of rape is not accomplice of the crime and there is, no rule of law that testimony cannot be acted without corroboration on material particulars and her testimony has to be appreciated on the principles of probabilities just as the testimony of any other witness and further, if the Court find it difficult to accept the version of the prosecutrix on its face value it may search for evidence direct or circumstantial which would lend assurance to her testimony.

14. The Apex Court in the case of *Bharwada Bhoginbhai Hirjibhai Vs. State of Gujarat*, has observed that refusal to act on the testimony of a victim of sexual assault in the absence of corroboration as a rule is adding insult to injury. The Apex Court deprecated viewing evidence of such victim with the aid of spectacles fitted with lenses tainted with doubt, disbelief and suspicion. The Apex Court in the case of *State of Punjab Vs. Gurmit Singh and Others*, has observed that the Court should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not of a fatal nature to throw out an otherwise reliable

prosecution case.

15. To begin with, it must be observed that while dealing with charges of sexual assault on women, particularly the cases like the present one, where the victim is a teenaged helpless poor girl belonging to a weaker section of the society, the courts have to display a greater sense of responsibility and to be more sensitive. It must also be kept in mind that a rapist not only violates the victim's privacy and personal integrity, but inevitably causes serious psychological as well as physical harm in the process and, therefore, the Courts shoulder a great responsibility while trying an accused on charges of rape and must deal with such cases with utmost sensitivity.

16. The questions arising for consideration in the instant case are: Whether the prosecution story, as alleged, inspires confidence on the basis of the evidence adduced in court? Whether the prosecutrix is a witness worthy of reliance? Whether the testimony of a prosecutrix who has been a victim of rape stands in need of corroboration and, if so, whether such corroboration is available in the facts of the present case. What was the age of the prosecutrix? And, whether there was unexplained delay in lodging the FIR?

17. The trial Judge, after considering the evidence and material on record came to a conclusion that the prosecutrix was below 16 years of age at the time when she was subjected to sexual intercourse against her will for the first time. I feel it necessary to reappreciate the evidence on the point of age. The statement of the prosecutrix was recorded on 28.7.1997. She has stated her to be of 16 years of age. The report of the incident was lodged on 24.10.1996 in which she has categorically made an allegation that the accused were committing sexual offence for last about a year. Thus, according to her statement and the written report, the prosecutrix was below 16 years of age at the time when she was subjected to sexual intercourse against her will. Even till the accused went on perpetuating the offence which could stop only when she dared to inform about the continuous sexual exploitation to her father and maternal uncles, which led to lodging the first information report on 24.10.1996. Her statement finds corroboration by her School record. The admission register Ex. P.44, mentions her date of birth as 1.6.1983 as is evident from the entry in the register at S1.No. 661. The Transfer Certificate, Ex.P.45 issued by the school where she took her primary education and which is a part of the school record where she last studied also makes a mention of 1.6.1983 as her date of birth. Even in the application form for admission, Ex.P.46-A, her date of birth has been recorded as 1.6.1983. Admittedly, no question on the point of age was put to the witnesses including the parents of the victim girl in their examination in chief before the trial court. However, after production of the school record in proof of her age, the accused were given enough opportunity to lead evidence in their defence and they examined only DW-4 Babu Lal. Thus, I am satisfied that the trial Judge was right in coming to a conclusion about the age of prosecutrix being less than 16 years of age at the time of commission of offence, believing her statement and

the school record being admissible in evidence.

18. True it is that it is common knowledge that parents very often mention a lesser age of the child at the time of admission in the school and I am in agreement with the observation of a Division Bench of Haryana High Court referred to in a judgment of the learned Single Judge of the Punjab & Haryana High Court in the case of Balbir Singh v. State of Haryana 1989 Cri 417, cited by the counsel for the accused appellants. However, I am of the opinion that the case cited before me has no application to the facts and circumstances of the present case. In the cited case, the father of the prosecutrix described her age on the basis of entry about the date of birth recorded in a diary which he used to maintain. It was considered to be not sufficient. The another evidence was the ossification test of the prosecutrix and the doctor on X-ray opined that victim could be of 19 years at the time of examination. The Court on the basis of medical evidence held that the victim was not below the age of 18 years. In the instant case as stated above, the prosecution has successfully established the age of the prosecutrix to be below 16 years at the time of commission of offence on the basis of the school record.

19. It would also not be out of place to mention here that PW-12 Dr. S.K. Agarwal on the basis of X-ray of wrists and pelvic found the epiphytes of wrists and pelvic not fused. There is an endorsement by the Medical Officer, Fagi on Ex.P.42 to the effect "approximated age of the Pt. Manju is 15 years", but prosecution has failed to prove the above opinion of the prosecutrix by putting question in his examination-in-chief. Be that as it may, the opinion of the doctor cannot be ignored. His opinion that the approximate age of the prosecutrix at the time of her examination was 15 years, is also a strong circumstance to corroborate the version of the prosecutrix.

20. Counsel for the accused appellants have submitted that the trial Court has committed an error in not relying upon the evidence of DW.4 Babu Lal on the point of age and the record of the Gram Panchayat. I have examined the evidence of DW-4 and the documents referred to by the learned Counsel. DW.4 Babu Lal was posted as Assistant Secretary in Gram Panchayat, Fagi who has stated that entry with regard to the birth of Manu D/o Kishan Lal is entered in the birth register of the Gram Panchayat and the certificate of birth has been issued on the basis of register maintained and kept in the Gram Panchayat. A perusal of Ex.P.48, birth and death register shows that Column No. 1 contains serial numbers 1 to 16 and against each serial number there exists single entry except Serial Nos.4 and 5, against which there are three entries. Obviously, there is one additional entry between serial numbers 4 and 5. It appears that the name of Manju has been got entered subsequently solely with a view to create evidence in defence. Thus, the trial court has rightly disbelieved the above defence put forth during trial.

21. For the offence of rape as defined in Section 375 IPC, the sexual intercourse should have been against the will of the woman or without her consent. The

consent is immaterial in certain circumstances covered by clauses thirdly to sixthly, the last one being when the victim is under 16 years of age. Certainly consent of woman is no defence, if the victim has been proved to be below 16 years of age. In the present case, the prosecutrix, a victim of rape and sexual exploitation has stated on oath that she has been forcibly and under threat of photographs subjected to sexual intercourse on number of occasions. She has narrated how she was exploited by the accused for the purposes of fulfilling their sexual lust. Her statement shows that this teenaged girl had no option but to abide by the ill intentions of fulfilling sexual lust of the accused appellants till she dared to narrate about her sexual exploitation by the accused to her father and maternal uncles and that too, only when the accused persons started beating her younger brother.

22. I have also gone through the statements of relevant prosecution witnesses. PW-6 Kamlesh, brother of the prosecutrix has categorically stated that accused persons used to threat him to call his sister otherwise they will kill him. He has further deposed that on 4.10.1996 while he alongwith his sister Manju was returning from market, accused Radhey Shyam, Ramjilal, Kanhaiyalal and Hemraj met him. They stopped both of them and asked him to get the photos of his sister with them, otherwise they will kill him. In his cross-examination, this witness stated that when he asked his sister as to why the accused used to call her, she did not disclose the entire story. He further stated that because of threat and fear, he did not immediately inform his parents or relations when the accused asked him to bring his sister for the first time. Though, there are some minor discrepancies in his statement, however, it becomes clear that the day on which accused had told him to bring his sister Manju and had threatened him, he had left for his maternal uncle at Jaipur on that very day and I do not find any reason to disbelieve this part of his statement.

23. PW-8 Ram Narain, maternal uncle of Kamlesh has deposed that Kamlesh had come to him in Jaipur at about 8.00 PM. He was so afraid and under threat that he could not even spoke for pretty long time. Ultimately, he sated that accused Radhey Shyam, Hemraj, Kanhaiyalal, Ramjilal, Raju and Radha Mohan gave him beating after calling him behind Sangam Cinema and that accused did "Marpeet" on his refusal to bring his sister Manju. Kamlesh also informed PW-8 about the accused's threat that they will lower down their prestige by making the photos public in the society.

24. In view of the above evidence the testimony of the prosecutrix needs no further corroboration. I find the testimony of prosecutrix's brother PW-6 Kamlesh trustworthy and unblemished. The prosecutrix and her brother both were subjected to lengthy cross-examination. The trial Court has found the witness reliable. I also do not find any reason to disbelieve their testimony. Nothing has come from the cross-examination of any of the witnesses so as to draw an inference of false involvement of the accused in such a heinous offence. No one would even think of subscribing a false story of sexual assault involving

his daughter, thereby putting at stake the future of the daughter who was married in her childhood, and the prestige of the family in the society. On an evaluation of the evidence available on record. I am satisfied to hold that the prosecutrix is a witness of truth, her testimony inspires confidence and the other evidence available on record lends assurance to her testimony. The trial Court has thus rightly held that sexual assault amounting to rape was committed on prosecutrix Manju by the accused appellants. The conviction of accused appellants Ramji Lal, Kanhaiya Lal, Hemraj and Radhey Shyam u/s 376 IPC needs no interference by this Court.

25. So far as the conviction of accused appellants Ramji Lal, Kanhaiya Lal, Hemraj and Radhey Shyam u/s 376/120-B IPC is concerned, needless to say that it is very difficult to establish conspiracy by direct evidence. I am fortified in my view by the following observations of the Apex Court in the case of Vijayan @ Rajan Vs. State of Kerala,

So far as the circumstances for bringing home the charge of conspiracy u/s 120-B against accused Sadanandan is concerned, less said the better. To bring home the charge of conspiracy within the ambit of Section 120-B of the Indian Penal Code, it is necessary to establish that there was an agreement between the parties for doing an unlawful act. It is no doubt true that it is difficult to establish conspiracy by direct evidence and, therefore, from established facts inference could be drawn but there must be some material from which it would be reasonable to establish a connection between the alleged conspiracy and the act done pursuant to the said conspiracy".

26. In the instant case, from the material produced on record, I find that the accused appellant Radhey Shyam got his photographs with the victim girl and the circumstances existing on record suggest that all of them hatched conspiracy and the accused by transfer of photographs to each other, used the photographs for exploitation of the girl. Hence, these circumstances are sufficient to infer conspiracy between the accused to sexually exploit Manju, a minor girl. The findings of the trial Court in recording conviction of the appellants u/s 376 read with Section 120-B IPC calls for no interference.

27. I have also seen the photographs of prosecutrix Manju Ex.P.6 to Ex.P.9 with a view to find out the correctness of the finding of guilt u/s 292 IPC arrived at by the trial Judge against accused appellant Radhey Shyam and Ram Kishan and in my opinion the photographs cannot at all be said to be of obscene character as the same are not lascivious or appeals to the prurient interest. In my opinion the photographs Ex.P.6 to Ex.P.9 do not at all stand to the test of Section 292 IPC and therefore, the conviction of accused appellants Radhey Shyam and Ram Kishan is liable to be reversed. So far as accused appellant Ram Kishan is concerned, the only allegation against him is that he took the photographs of the prosecutrix and appellant Radhey Shyam. He is not at all involved either in the commission of offence u/s 376 nor the conspiracy, though he was charged under these offences. There is no evidence against him except that he took the

photographs, which in my opinion was in the course of his business activities. Therefore, appellant Ram Kishan deserves to be acquitted of the offence u/s 292 IPC.

28. As regards the contention of the learned Counsel for the accused appellants that there being unexplained inordinate delay in lodging the FIR, the prosecution story becomes doubtful and the benefit must go to the appellants, I may state that a mere delay in lodging the FIR cannot be a ground by itself for throwing the entire prosecution case overboard. If the delay is explained to the satisfaction of the Court it cannot be counted against the prosecution. Reference is made to a decision of the Apex Court in State of Rajasthan Vs. Shri Narayan, wherein, it was observed as under:

True it is that the complaint was lodged two days later but as stated earlier Indian society being what it is the victims of such a crime ordinarily consult relatives and are hesitant to approach the police since it involves the question of morality and chastity of a married woman. A woman and her relatives have to struggle with several situations before deciding to approach the police.

30. In State of Punjab Vs. Gurmit Singh and Others, their Lordships of the Supreme Court have also observed as below:

The courts cannot overlook the fact that in sexual offences delay in lodging of the FIR can be due to variety of reasons particularly the reluctance of the prosecutrix or her family members to go to the police and complain about the incident which concerns the reputation of the prosecutrix and the honour of her family. It is only after given it a cool thought that a complaint of sexual offence is generally lodged.

31. In the case in hand, accused appellants sexually exploited a helpless teenaged girl for about a year and she could not dare to inform her parents or relations about her sexual exploitation for the reasons explained in the earlier part of this judgment. Immediately on coming to know about the incident, father and maternal uncles immediately lodged the complaint. Thus, there cannot be said to be any delay, much less an inordinate delay.

32. Now remains the question of sentence. The incident is of the year 1995. The accused appellants namely, Radhey Shyam, Hemraj, Ramji Lal and Kanhaiya Lal were taken into custody on 24.10.1996 and 27.10.1996. At the time of their arrest, the accused appellants Radhey Shyam, Ramji Lal, Hemraj and Kanhaiya Lal were aged about 21, 21, 18 and 19 years respectively. Accused Radhey Shyam has remained in jail for about four years and eight months, accused Ramji Lal has remained in jail for about four years and five months, accused Hemraj has remained in jail for about three years and accused Kanhaiya Lal has remained in jail for about three and half years. Taking in consideration, the period of remission for which the accused would have been entitled, the time which has elapsed from the date of commission of offence, and the young age of the appellants, I am of the opinion, that the ends of justice would be met if the

sentences awarded to them are reduced to the period already undergone by them with a fine of Rs. 3000/- each. I am fortified in my view by a decision of the Supreme Court in the case of State of Himachal Pradesh Vs. Mango Ram, wherein, the Apex Court while convicting the accused u/s 376 IPC, reduced the sentence to the term already undergone. This Court also in Dhoor Singh and Ors. v. State of Rajasthan 2000 WLC (Raj) 248 (UC), while maintaining the conviction of the appellants under Sections 376 and 366 IPC reduced the sentence of seven years to the period already undergone i.e. 2 years and 1 month.

33. In the case of rape, compensation for victims shall be awarded by the Court on conviction of the offender. Considering the object and scope of the provisions of Section 357 their Lordships of the Supreme Court in the case of Hari Kishan Vs. Sukhbir Singh and Others, , has observed in paras (10) and (11) of the judgment as here below:

(10) Sub-Section (1) of the Section 357 provides power to award compensation of victims of the offence out of the sentence of fine imposed on accused. In this case, we are not concerned with Sub-section (1). We are concerned only with Sub-section (3). It is an important provision but Courts have seldom invoked it. Perhaps due to ignorance of the object of it. It empowers the Court to award compensation to victims while passing judgment of conviction. In addition to conviction, the Court may order the accused to pay some amount by way of compensation to victim who has suffered by the action of accused. It may be noted that this power of Courts to award compensation is not ancillary to other sentences but it is in addition thereto. This power was intended to do something to reassure the victim that he or she is not forgotten in the criminal justice system. It is a measure of responding appropriately to crime as well of reconciling the victim with the offender. It is, to some extent, a constructive approach to crimes. It is indeed a step forward in our criminal justice system. We, therefore, recommend to all Courts to exercise this power liberally so as to meet the ends of justice in a better way.

(11) The payment by way of compensation must, however, be reasonable. What is reasonable, may depend upon the facts and circumstances of each case. The quantum of compensation may be determined by taking into account the nature of crime, the justness of claim by the victim and the ability of accused to pay. If there are more than one accused they may be asked to pay in equal terms unless their capacity to pay varies considerably. The payment may also vary depending upon the acts of each accused. Reasonable period for payment of compensation, if necessary by installments may also be given. The Court may enforce the order by imposing sentence in default.

34. Their Lordships of the Supreme Court in Delhi Domestic Working Women's Forum Vs. Union of India (UOI) and Others, have indicated the broad parameters in assisting the victims of the rape. Clause (8) is relevant to the present case, which reads as under; "Compensation for victims shall be awarded by the court on conviction of the offender and by the Criminal Injuries Compensation Board

whether or not a conviction has taken place. The Board will take into account pain, suffering and shock as well as loss of earnings due to pregnancy and the expenses of child birth if this occurred as a result of rape."

35. This Court also while dealing with a case involving offence under Sections 302/149, 364 and 147 IPC, considered the scope of Section 357 Cr.P.C. have held that the quantum of compensation may be determined by taking into account the nature of the crime, the manner in which it has been committed, the justness of claim by the victim and the ability of the accused to pay. In doing so, the Division Bench took into consideration the directions of the Hon"ble Supreme Court to all the courts to exercise this power liberally so as to meet the ends of justice in a better way.

36. In Pappu @ Pat Ram v. State of Rajasthan 1996 21 RCC 88, this Court while reducing the sentence of 10 years passed against the accused for offence u/s 376 IPC reduced the period already undergone and imposed fine of Rs. 15,000/-. The relevant observations are quoted below:

In the result, this appeal is partly allowed. The conviction of the accused appellant u/s 376 IPC is maintained and upheld, but the sentence of rigorous imprisonment for 10 years awarded by the learned trial court is reduced to the imprisonment for the period already undergone, the sentence of fine is increased to Rs. 15,000/- which shall be paid by the accused appellant within three months. In case the fine is not paid within the stipulated period, the accused appellant shall undergo a further rigorous imprisonment for four years in default of fine. The amount of fine shall be paid to the prosecutrix Smt. Nanki W/o Lichhman Ram, by way of compensation.

37. In the light of the above case laws and in the facts and circumstances of the present case keeping in view the continuous sexual exploitation of a teenaged girl belonging to a poor segment, for about a year, I consider it proper that the ends of justice would be met if each of the four accused appellants pays compensation to the tune of Rs. 3000/- to victim Manju.

38. In the result, these appeals are allowed in part. The conviction of accused appellants Radhey Shyam, Ramji Lal, Hemraj and Kanhaiya Lal for offence under Sections 376 and 376/120-B is maintained, but the sentence of rigorous imprisonment for 7 years u/s 376 and 7 years u/s 376/120-B awarded by the learned trial court is reduced to period already undergone by them. However, in the facts and circumstances of the case, the amount of fine imposed on each of the appellants by the trial Court is increased to Rs. 3000/- each, which shall be paid by the accused appellants within 3 months. In case the fine is not paid within the period stipulated, the accused appellants shall undergo a further rigorous imprisonment for one year in default of fine. The amount of fine shall be paid to the prosecutrix, Mst. Manju by way of compensation. The conviction of accused appellants Radhey Shyam and Ram Kishan u/s 292 is set aside. Accused appellants Radhey Shyam, Hemraj, Ramji Lal and Kanhaiya Lal are in jail and

they be released forthwith if not required in any other case. Accused appellant Ram Kishan is already on bail and he need not surrender to his bail bonds.

39. Each of the accused appellants shall deposit the fine of Rs. 3000/- in the learned trial court within three months, failing with the learned trial court shall cause them to be re-arrested for undergoing further rigorous imprisonment for one year in default of payment of fine. The fine if so deposited shall be paid to the prosecutrix Mst. Manju by way of compensation.

40. The appeals stand disposed of accordingly.