
(2025) 04 SC CK 0297

In the Supreme Court Of India

Case No : Criminal Appeal No. 2321 Of 2025 (@Special Leave Petition (Criminal) No.11566 of 2024)

Keshav S/o Laxman Rupnar & Anr

APPELLANT

Vs

State Of Maharashtra

RESPONDENT

Date of Decision : 30-04-2025

Acts Referred:

Citation : (2025) 04 SC CK 0297

Hon'ble Judges : Sudhanshu Dhulia, J;K. Vinod Chandran, J

Bench : Division Bench

Advocate : Shashibhushan P. Adgaonkar, Sharangouda Patil, Anoop Raj, Aaditya Aniruddha Pande, Siddharth Dharmadhikari, Bharat Bagla, Sourav Singh, Aditya Krishna, Adarsh Dubey

Final Decision : Allowed

Judgement

K. Vinod Chandran, J

1. Leave granted.

2. The accused, appellants No. 1 and 2 were alleged to have committed rape on PWs 2 and 3. The appellants were arrayed along with two others, before the Trial Court, all of whom stood convicted; the appellants for abduction and rape while the other two were convicted for abduction alone. Two set of appeals were filed, one by the appellants herein and another by A3 & A4, the latter of which was allowed acquitting A3 and A4.

3. We heard Mr. Sharangouda Patil, learned Counsel for the appellants and Mr. Aaditya Aniruddha Pande, learned Counsel for the respondent - State.

4. The prosecution story was that PWs 2 and 3, wives of siblings, had a quarrel with their mother-in-law and left their matrimonial home, on the pretext of answering the call of nature. The two year old son of PW3 was also taken with them. PWs 2 and 3 with an intention to go to Kurla, boarded a tempo in which

accused No.1 to 4 were travelling. The accused promised to take them to Kurla without charging any fare and when they reached Bodka, PW4 who was also in the tempo alighted and PWs 2 and 3 continued in the vehicle. The accused, however, refused to stop the vehicle at Kurla and went forward, ignoring the protests made by PWs 2 & 3. PWs 2 and 3 raised a hue and cry when they were threatened with a knife. They were taken to a field and both PWs 2 and 3 were raped by A1 and A2, one after the other. PW2 deposed that A3 and A4 aided A1 and A2, whereas PW3 said that when the vehicle was stopped beyond Kurla A3 and A4 left. This contradiction in testimony led to the acquittal of A3 and A4.

5. The continued narration of PWs 2 and 3 was that after raping them A1 and A2 dropped them at Gangakhed from where they proceeded to Parbhani where they stayed for about 15 days. The victims left their matrimonial home on 04.06.2000 and later after PW2's father brought them back to their village an FIR was registered on 20.06.2000. The Trial Court convicted the accused solely on the testimony of the victims, which was found to be believable; affirmed as mutually corroborated by the High Court. It is the uninspiring testimony of PWs 2 and 3 and the unbelievable story set up, which is projected to assail the order of conviction.

6. PW 1 was the father of PW 2 who was also the first informant. PW1 specifically testified that on the missing of the victims, along with the son of one of them, a complaint was registered with the police, which was marked as Exb.33. His testimony was that it was for the first time that the victims left their matrimonial home without informing their husbands and on inquiry the victims told that they were planning to go to their parental home due to quarrel with their mother-in-law. The mother-in-law or their husbands were not examined before Court to substantiate that they had left their marital home.

7. PW2 and PW3, no doubt spoke in tandem about their boarding the tempo on the promise of the accused to drop them at Kurla, the accused having not stopped the vehicle at Kurla, threatening them when they raised a hue and cry, and later raping them at a deserted field. It is very pertinent that the two-year old boy was with the victims at the time when the crime was alleged to have been committed, but there is nothing stated about his whereabouts when the two accused were simultaneously but separately forcefully having sexual intercourse with the victims.

8. Both the Trial Court and Appellate Court placed heavy reliance on the testimony of PW4 who saw the victims along with the child travelling in the tempo. Strangely, PW 4 did not identify either of the accused as having travelled in the tempo. PW3 has stated that they planned to go to Kurla to stay with the sister of PW 2 in which event in all probability, after the atrocity committed on them, they would have gone to the sister of PW 2. For arguments sake we would take it that the shame caused, forced them to go to Parbhani. It is the testimony of PW 2 in her chief-examination that they hired a room at Parbhani on rent basis and stayed there for 15 days. In cross-examination she also stated that she had

sold a 'natni' to obtain money. Neither the lodge was identified or anybody examined to prove their residence nor any investigation conducted regarding the sale of 'natni'. More interesting is the fact that in cross-examination PW2 stated that in Parbhani they stayed with a 'cousin-aunt' to whom they have not disclosed the incident of rape. The specific contention was that they stayed for about 14 days with the 'cousin-aunt' and for one day with another lady and then that lady took her to the residence of her 'cousin-aunt' where they stayed for 14 days. PW 3 in her cross-examination stated that at Parbhani they stayed in the residence of an unknown lady for four to five days and thereafter with the relative of PW2. PW3 speaks of having told the lady that they left their matrimonial home due to the ill-treatment of their husbands and in-laws. Not only were contradictory versions given about their stay in Parbhani, nobody was examined to substantiate the stay at Parbhani for 15 days.

9. *State of Punjab v. Gurmit Singh* (1996) 2 SCC 384, held that even without any corroboration, if the evidence of the prosecutrix inspires confidence, it can be relied on and can also be the sole ground for conviction. However, if it is difficult to place implicit reliance on the testimony of the prosecutrix, then the Court has to look for evidence to lend assurance to her testimony which would be short of corroboration required in the case. The testimony of the prosecutrix must be appreciated in the background of the entire case, was the finding. *Raju v. State of M.P.* (2008) 15 SCC 133, while reiterating the above principle also cautioned that while rape causes the greatest distress and humiliation, a false allegation of rape also can cause equal distress, humiliation and damage to the accused as well. The Court should be equally careful in protecting the accused from a false implication. While applying the broad principle that an injured witness, whose presence cannot be doubted, as she would ordinarily not lie, still there is no presumption or any basis for assuming that the statement of such a witness is always correct or without any embellishments.

10. Looking at the totality of the circumstances and the entire story as narrated by the victims, PW 2 and PW3, we find difficulty in accepting their testimony to be one having sterling quality. We cannot also say that the story as narrated by the victims inspires confidence. Looking for assurance, we find the entire narration to be unbelievable and not substantiated on its finer details. As we noticed, nobody is examined from the matrimonial house to speak on the victims having left their residence without informing their in-laws or their husbands. PW 4, as we noticed only speaks of having seen the victims along with the child travelling in a tempo, but he does not speak of the accused travelling along with them. Neither did he identify the accused in the dock nor was an attempt made by the prosecution to carry out such an identification, in Court. PWs 2 and 3 identified the accused and there was also a test identification parade carried out. However, their story of having been taken past Kurla and the rape in the deserted field does not inspire confidence. Likewise, the subsequent stay in Parbhani, that too for 15 days, is full of inconsistencies and police also did not carry out any investigation as to the place at which the victims stayed along with

the child of two years.

11. Further we also looked at the evidence of PW 9, the Doctor, who examined the victims, who deposed that he saw no evidence of a forceful sexual intercourse. We are conscious of the fact that the medical examination was done after 15 days of the alleged crime. But the Doctor deposes that if there was forceful sexual intercourse, that too repeated, as evident from the testimony, there would be some injuries which may not be detected after about one or one and a half months. The medical examination was within that period.

12. In the totality of the circumstances, we are unable to place any reliance on the oral testimony of PWs 2 and 3; though they spoke in tandem about the crime. The story put up by the prosecution as spoken of by PWs 2 and 3 are full of holes and it raises a grave suspicion in our minds which qualifies as reasonable doubt.

13. The Appeal stands allowed acquitting the accused. The judgment of High Court dated 02.07.2024 and the Trial Court dated 02.07.2003 are hereby set aside. The accused if in custody shall be released forthwith, if they are not wanted in any other case and if they are on bail, their bail bonds shall stand cancelled.

14. Pending applications, if any, shall stand disposed of.