
(2008) 01 P&H CK 0232
In the Punjab And Haryana At Chandigarh
Case No : Criminal Appeal No. 344-SB of 1995

Rajender Singh @ Tillu

APPELLANT

Vs

The State of Haryana

RESPONDENT

Date of Decision : 23-01-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313
Evidence Act, 1872 — Section 114, 118, 133, 59
Penal Code, 1860 (IPC) — Section 376, 506

Citation : (2008) 1 RCR(Criminal) 1012

Hon'ble Judges : Sham Sunder, J

Bench : Single Bench

Advocate : Bipan Ghai, for the Appellant; Kartar Singh, AAG, Haryana, for the Respondent

Final Decision : Dismissed

Judgement

Sham Sunder, J.—This appeal is directed against the judgment of conviction dated 5.6.1995, and the order of sentence dated 6.6.1995, rendered by the Court of Addl. Sessions Judge, Rewari, vide which it convicted the accused/appellant Rajender Singh, for the offence punishable under Sections 376 and 506 of the Indian Penal Code, and sentenced him to undergo rigorous imprisonment for a period of 7 years u/s 376 of IPC, and to pay a fine of Rs. 1000/-, and in default of payment of the same, to undergo rigorous imprisonment for another period of 3 months. He was further sentenced to undergo imprisonment for six months for the offence punishable u/s 506 IPC. The substantive sentence was ordered to run concurrently.

2. The facts, in brief, are that on 23.12.1993, at about 10.00 AM, the prosecutrix (her name was mentioned by the trial Court in its judgment, but is not being recorded in this judgment, in view of the law, laid down by the Apex Court and she is being referred to as prosecutrix) had gone to the fields, in the area of village Karawra-Manakpur, P.S. Jatusana for fetching Kasni fodder, and when she

was returning to the village, at about 10.30 AM, with a bundle of kasni fodder, she was intercepted by Rajender, accused, in the fields of Dhan Singh S/o Chiranji Lal. Rajender accused emerged from the mustard crop fields, caught the prosecutrix by her hand, and pulled her, in the fields. He committed rape with her, by gagging her mouth with a piece of cloth. While committing rape with her, he also intimidated her, with death, in case she revealed this act to anybody. After committing rape, the accused disappeared, from the scene. He was seen running away by Ram Singh and Kumari Laxmi. The prosecutrix went crying to her mother, and narrated the entire incident to her. Since Dhan Singh, the father of the prosecutrix, was not in the village, on that day, the matter was not reported to the police. He was informed on his arrival, about the occurrence, in the village on 25.12.1993. Thereafter, the matter was reported to the police. The prosecutrix was got medico-legally examined. The accused was arrested. After the completion of investigation, the accused was challaned.

3. On his appearance, in the Court of the Committing Magistrate, the copies of documents, relied upon by the prosecution, were supplied to the accused. After the case was received by commitment, in the Court of Sessions, charge under Sections 376 and 506 of IPC, was framed against him, to which he pleaded not guilty and claimed trial.

4. The prosecution, in support of its case, examined Dr. R.A. Gupta, (PW-1), who on 25.12.1993, medico-legally examined Rajender @ Tillu accused, and opined that there was no suggestive sign of his incapability of doing the act of intercourse i.e. Coitus. Dr. Saroj Mann, Medical Officer, Civil Hospital, Rewari (PW-3), who medico-legally examined the prosecutrix, aged about 15 years, found multiple abrasions, present on the lower jaw, and around the corner of mouth, on left side, and opined that the commission of rape, could not be ruled out. The prosecutrix, while appearing as (PW-4), deposed in terms of the prosecution case. Smt. Phool (PW-5), mother of the prosecutrix, stated that immediately after the occurrence, the prosecutrix came crying to her, and narrated her that the accused had committed rape with her, Dhan Singh (PW-6), father of the prosecutrix, deposed that when he returned to the village on 25.12.1995, he was told by his wife, that rape had been committed with the prosecutrix, their daughter, by the accused Laxmi (PW-7), did not support the case of the prosecution, Ram Singh (PW-8), saw accused Rajender coming out of the mustard crop fields, belonging to Dhan Singh, and running away, under suspicious circumstances, whereas, the prosecutrix also known as Bhateri while crying too emerged out of the same fields. Kamal Singh, Constable, appeared as (PW-9), whereas, Raghubir Singh, ASI, appeared as (PW-10), and Satbir Singh, SI, appeared as (PW-11), Parmanand, Sr. Assistant (PW-12), brought the original register, pertaining to the birth entries of village Karawra Manakpur, pertaining to the year 1978, and deposed that a girl in the name of Bhateri D/o Dhan Singh S/o Girdhari, was born, and her date of birth is recorded as 18.10.1978. The Addl. PP for the State, tendered into evidence affidavits Ex.PA and Ex.PB of Ravinder Singh, MHC, and Narain Singh, Constable, respectively. Thereafter, he closed the

prosecution evidence.

5. The statement of the accused u/s 313 Cr.P.C., was recorded, and he was put all the incriminating circumstances, appearing against him, in the prosecution evidence. He pleaded false implication. He, however, examined Dr. Vinod Kumar Yadav, (DW-1), in support of his case. Thereafter, he closed the defence evidence.

6. After hearing the Addl. Public Prosecutor for the State, the Counsel for the accused, and, on going through the evidence, on record, the trial Court, convicted and sentenced the accused, as stated hereinbefore.

7. Feeling aggrieved, against the judgment of conviction, and the order of sentence, rendered by the trial Court, the instant appeal, was filed by the accused/appellant.

8. I have heard the learned counsel for the parties, and have gone through the evidence and record of the case, carefully.

9. It is settled principle of Criminal jurisprudence, that the prosecution, is required to prove its case, against the accused, beyond a reasonable doubt. The Court is not required to act on mere suspicion, conjectures or surmises or suspicious circumstances, to bring home the guilt to the accused. Reasonable doubt should not be stretched too far, to suspect everything so as to defeat the ends of justice. In, the principle of law, laid down, was to the effect, that reasonable doubt, is simply that degree of doubt, which could permit a reasonable and just man to come to a conclusion. Reasonableness of the doubt must be commensurate with the nature of offence to be investigated. Exaggerated devotion to the rule of benefit of doubt, must not nurture fanciful doubts, and lingering suspicions and thereby destroy social defence. Justice cannot be made sterile, on the plea, that it is better to let hundred guilty escape, than punish an innocent. Letting guilty escape is not doing justice according to law. In, the principle of law, laid down, was to the effect, that it is necessary to remember that a judge does not preside over a criminal trial merely to see, that no innocent man is punished. A Judge also presides to see that guilty man does not escape. One is as important, as the other. Both are public duties, which the Judge has to perform.

10. Before touching the merits of the case, in the light of the evidence, on record, in the first instance, it must be stated, as to what approach, the Court should adopt, while evaluating the prosecution evidence, particularly the evidence of the prosecutrix, in sex related offence. Is it essential that the evidence of the prosecutrix should be corroborated in material particulars, before the Court bases a conviction on her testimony ? Does the rule of prudence demand that in all cases save the rarest of rare, the Court should look for corroboration before acting on the evidence of the prosecutrix ? Let us see, if the Evidence Act, provides the clue to this riddle. Under the Evidence Act, evidence means and includes all statements, which the Court permits or requires to be made before it, by the witnesses, in relation to the matters of fact, under inquiry.

u/s 59 of the Evidence Act, all facts, except the contents of documents, may be proved by oral evidence. Section 118 then illustrates, as to who may give oral evidence. According to that Section, all persons are competent to testify, unless the Court considers that they are prevented from understanding the questions, put to them, or from giving rational answers to those questions, by tender years, extreme old age, disease, whether of body or mind, or any other cause of the same kind. Even, in the case of an accomplice, Section 133 provides that he/she shall be a competent witness, against an accused person, and the conviction is not illegal, merely because it proceeds upon the uncorroborated testimony of an accomplice. However, illustration (b) to Section 114, which lays down a rule of practice, says that the Court may presume that an accomplice is unworthy of credit, unless he is corroborated, in material particulars. Thus, u/s 133, which lays down a rule of law, an accomplice is a competent witness, and the conviction based solely on his uncorroborated evidence, is not illegal, although in view of Section 114 illustration (b), the Courts do not, as a matter of practice, do so, and look for corroboration, in material particulars. This is the conjoint effect of Sections 133 and 114 illustration (b).

10-A. In, it was held as under:

"A prosecutrix of a sex-offence cannot be on par with an accomplice. She is in fact a victim of the crime. The evidence Act nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness u/s 118 and her evidence must receive the same weight as it attached to an injured in cases of physical violence. The same degree of care and caution must attach in the evaluation of her evidence, as in the case of an injured complainant or witness and no more. What is necessary is that the Court must be alive to and conscious of the fact that it is dealing with the evidence of a person, who is interested in the outcome of the charge levelled by her. If the Court keeps this in mind and feels satisfied that it can act on the evidence of the prosecutrix, there is no rule of law or practice incorporated in the Evidence Act, similar to illustration (b) to Section 114 which required it to look for corroboration. If for the same reason the Court is hesitant to place implicit reliance on the testimony of the prosecutrix, it may look for evidence which may lend assurance to her testimony short of corroboration required in the case of an accomplice. The nature of evidence to lend assurance to the testimony of the prosecutrix must necessarily depend on the facts and circumstances of each case. But if a prosecutrix is an adult and of full understanding the Court is entitled to base a conviction on her evidence unless the same is shown to be infirm and not trustworthy. If the totality of the circumstances appearing on the record of the case disclose that the prosecutrix does not have a strong motive to falsely involve the person charged, the Court should ordinarily have no hesitation, in accepting her evidence. We have, therefore, no doubt, in our minds, that ordinarily the evidence of a prosecutrix who does not lack understanding must be accepted. The degree of proof required must not be higher than is expected of an injured witness. For the above reasons we think

that exception has rightly been taken to the approach of the High Court as is reflected in the following passage:

"It is only, in the rarest of rare cases if the Court finds that the testimony of the prosecutrix is so trustworthy truthful and reliable that other corroboration may not be necessary."

With respect, the law is not correctly stated. If we may say so, it is just the reverse. Ordinarily, the evidence of prosecutrix, must carry the same weight as is attached to an injured person, who is a victim of violence, unless there are special circumstances which call for greater caution, in which case it would be safe to act on her testimony, if there is independent evidence lending assurance to her accusation.

We think it proper, having regard to the increase in the number of sex- violation cases in the recent past, particularly cases of molestation and rape in custody, to remove the notion, if it persists, that the testimony of a woman who is a victim of sexual violence must ordinarily be corroborated in material particulars, except in the rarest of rare cases. To insist on corroboration except in the rarest of rare cases is to equate a woman who is a victim of the lust of another with an accomplice to crime and thereby insult womanhood. It would be adding insult to injury to tell a woman that her story of woe would not be believed unless it is corroborated in material particulars in the case of an accomplice to a crime. Ours is a conservative society where it concerns sexual behaviour. Ours is not a permissive society as in some of the Western and European countries. Our standard of decency and morality in public life is not the same as in those countries. It is, however, evident that respect for womanhood, in our country is on active and cases of molestation and rape are steadily growing. Indian woman is now required to suffer indignities in different forms. From lewd remarks to eve-teasing, from molestation to rape. Decency and morality in public life can be promoted and protected only if we deal strictly with those, who violate the social norms. The standard of proof to be required by the Court in such cases, must take into account the fact that such crimes are generally committed on the sly and very rarely direct evidence of a person other than the prosecutrix is available. Courts must also realise that ordinarily woman, more so a young girl, will not stake her reputation by levelling a false charge concerning her chastity.

It is time to recall the observation of this Court made not so far back in *Bhaiwaca Bhognibhai Hirjinbhai*:

In the Indian setting refusal to act on the testimony of a victim of sexual assault in the absence of corroboration as a rule, is a doing insult to injury. Why should the evidence of the girl or the woman who complains of rape or sexual molestation be viewed with the aid of spectacles fitted with lenses tinged with doubt, disbelief or suspicion ? To do so is to justify the charge of male chauvinism in a male dominated society. We must analyse the argument in support of the need for corroboration and subject it to relentless and remorseless

cross-examination. And we must do so with a logical, and not an opinionated eye in the light of probabilities with our feet firmly planted on the soil of India and with our eyes focussed on the Indian horizon. We must not be swept off the feet by the approach, made in the Western world which has its own social milieu, its own permissive values, and its own code of life. Corroboration may, be considered essential to establish a sexual offence in the backdrop of the social ecology of the Western World. It is wholly unnecessary to import the said concept on a turn-Key basis and to transplant it on the Indian soil regardless of the altogether different atmosphere, attitudes, mores, responses of the Indian Society and its profile. The identities of the two worlds are different. The solution of problems therefore, cannot be identical.

Further this Court said:

Without the fear of making too wide a statement or of over-stating the case it can be said that rarely will a girl or a woman in India false allegations of sexual assault.... The statement is generally true in the context of the urban as also rural society. It is also by and large true in the context of the sophisticated, not so sophisticated, and unsophisticated society. Only very rarely can one conceivably come across an exception or to and that too possibly from amongst the urban elites. Because (1). A girl or a woman in the tradition bound non-permissive society of India would be extremely reluctant even to admit that any incident which is likely to reflect on her chastity had ever occurred. (2) She would be conscious of the danger of being ostracised by the society or being looked down by the society including by her own family members, relatives, friends and neighbours. (3) She would have to brave the whole world. (4) She would have to brave the whole world. (4) she would face the risk of losing the love and respect of her own husband and near relatives, and of her matrimonial home and happiness being shattered. (5) If she is unmarried she would apprehend that it would be difficult to secure an alliance with a suitable match from a respectable or an acceptable family. (6) It would almost inevitably and almost invariably result in mental torture and suffering to herself. (7) The fear of being taunted by others will always haunt her. (8) She would feel extremely embarrassed in relating the incident to others being over powered by a feeling of shame on account of the upbringing in a tradition bound society whereby and large sex is taboo. (9) The natural inclination would be to avoid giving publicity to the incident lest the family name and family honour is brought into controversy. (10) The parents of an unmarried girl as also the husband and members of the husband's family of a married woman would also more often than not, want to avoid publicity on account of the fear of social stigma on the family name and family honour. (11) The fear of the victim herself being considered to the promiscuous or in some way responsible for the incident regardless of her innocence. (12) The reluctance to face interrogation by investigating agency, to face the Court to face the cross-examination, by Counsel for the culprit, and the risk of being disbelieved, acts as a deterrent.

11. Keeping in view of the principle of law, laid down, in the aforesaid authorities, it is to be seen, as to whether, the prosecution was successful in proving its case. The evidence of the prosecutrix also known as Bhateri to the effect that, rape was committed with her, by Rajender @ Tillu accused/appellant, in the fields, when she had gone there to bring Kasni fodder on 23.12.1993 at about 10.30 AM, on reappraisal, has been found to cogent, convincing, creditworthy, and reliable. Nothing could be brought out, during the course of her cross-examination, which may cast any serious doubt, on her statement. Due corroboration to her statement was furnished through the evidence of Phool (PW-5), her mother to whom, she came crying immediately after the rape, and narrated to her that the said act had been committed with her, by the accused/appellant. Her evidence falls within the realm of res- gestae. Still further corroboration to the ocular evidence was furnished by Ram Singh (PW-8), who saw the accused, emerging out of mustard crop field, and running away under suspicious circumstances, and immediately thereafter, he saw the prosecutrix also known as Bhateri, emerging out of the same place crying. The ocular evidence was duly corroborated by the medical evidence of Dr. Saroj Mann (PW-3), who found multiple abrasions on the abdomen, lower jaw, and around corner of mouth on left side, of the prosecutrix, and also found the fauchette slightly swollen and red, when her vagina was examined, by her. Not only this, she found that her vagina admitted only one finger with ease, and two fingers with great difficulty, and with tenderness. She in clear-cut terms, stated that the possibility of commission of rape with the prosecutrix, could not be ruled out. Still, further corroboration to the ocular evidence, was provided by the report Ex.PJ of the Forensic Science Laboratory, to which one brown cotton Kachhi, one white terricot Jumpher, one blue terricot salwar, two cotton wool swabs described as Vaginal Swabs of the prosecutrix, four microscopic glass slides, each having faint whitish smear, on one surface each, were sent to find out the presence of semen thereon. The Forensic Science Laboratory vide report Ex.PJ found human semen on Kachhi, Vaginal Swabs, Slides and underwear of the prosecutrix. Since rape was committed with her, in the mustard crop field, numerous large and muddy brownish smears and a few small faint greenish smears, were found on the jumpher and salwar of the prosecutrix. These muddy brownish and small greenish smears were bound to stick to the jumpher and salwar of the prosecutrix, when she was laid on the ground, in the mustard crop fields, and rape was committed with her. There was no reason for the prosecutrix, her mother, and Ram Singh, to depose falsely. Nothing was brought, on the record, that the prosecutrix, and her mother, as also Ram Singh, had any ill-will, grudge or enmity against the accused. A young girl of about 15 years, could not be expected to raise false allegation of rape, having been committed with her, by the accused. The finding of the trial Court, that rape was committed with the prosecutrix is, thus, in consonance with the evidence produced by the prosecution.

12. The Counsel for the appellant, however, submitted that there was

unexplained delay of two days, in lodging the FIR. He further submitted that this delay was utilized by the prosecutrix, and her parents to concoct a story, falsely implicate the accused, and introduction of false witnesses. The submission of the Counsel for the appellant, in this regard, does not appear to be correct. No doubt, the occurrence took place on 23.12.1993, at about 10.30 AM, in the fields, in the area of village Karawara Manakpur. Phool wife of Dhan Singh (PW-5), the mother of the prosecutrix, in her statement, in clear-cut terms, stated that her husband was away to attend some relative, in a different village, and she waited for his return, before going to the Police Station, to get the FIR registered. Dhan Singh (PW-6), father of the prosecutrix, also stated that he had gone out of the village, and his wife waited for him, and when he returned to the village on 25.12.1993, the FIR was lodged. There was, thus, valid explanation, for delay in lodging the FIR. In, the parents of the victim of rape, reported the matter, in the first instance, to the village Panchayat, and when the Panchayat failed to provide any relief, the FIR was lodged thereafter. In these circumstances, the Apex Court held that the delay stood properly explained. It was also held that in sexual offences, the delay in lodging the FIR, could be due to a variety of reasons, particularly the reluctance of the prosecutrix, or family members to approach the police, and lodge complaint, about the incident, which concerns the reputation and honour of the family and victim. In, rape was committed on a girl of 14 years. There was delay of 17 days, in lodging the report. The father of the prosecutrix, was seriously ill and the family members did not want to create tension, in his mind and waited for his recovery. In these circumstances, such explanation was accepted as correct, and the Hon'ble Supreme Court, held that the delay stood explained. In, a case u/s 376 IPC, there was a delay of 20 days in lodging the report. In these circumstances, it was held, in the said authority, that when explanation for delay, in lodging the FIR, was satisfactory, no material significance, could be attached to the said delay. In, a case u/s 376 IPC, the report was lodged after 14 days of the incident. In these circumstances, it was held that the delay was natural, in rape cases for fear of undue publicity and consequent ignominy, to the family of ravished girl. It was further held that the prosecution version could not be doubted, on account of delay, in lodging the FIR. The principle of law laid down, and the observations made, in the aforesaid authorities, are applicable to the facts of the present case. Since the delay, in lodging the FIR, in the instant case, stood duly explained, from the evidence, on record, the prosecution story, could not be doubted, on account of that reason. The findings of trial Court, on this aspect of the matter, are in consonance with the evidence produced. The submission of the Counsel for the accused/appellant, therefore, stands rejected.

13. It was next submitted by the Counsel for the appellant, that the prosecution miserably failed to prove that the age of the prosecutrix, on the date of the alleged occurrence, was 15 years. He further submitted that, on the other hand, from the ossification test, it was proved that her age was about 17/18 years, at the time of the alleged occurrence. He further submitted that, she therefore, was

not minor, at the time of the alleged occurrence. He also submitted that the prosecution failed to prove beyond reasonable doubt, that the prosecutrix was also known as Bhateri, whose birth certificate was produced to prove her age. Smt. Phool, mother of the prosecutrix, when appeared as, PW-5, stated that her daughter was also known as Bhateri. She further stated that she has only two daughters. She also stated that her elder daughter is known by the name of Kamlesh, and she was 7 years older, than the prosecutrix, on the date of occurrence. The prosecutrix, when appeared as PW- 4, also gave her name with the alias of Bhateri. Ram Singh (PW-8) also stated, in his statement, that the prosecutrix, who is also known as Bhateri, emerged out of the fields crying, immediately after Rajender accused/appellant emerged out of the same fields, and ran away, under suspicious circumstances. Ex.PW12/A is the birth certificate of Bhateri, which was proved by Parmanand, Statical Assistant, Civil Hospital, Rewari, who appeared as PW-12. He stated that, in the original register, pertaining to the birth entries of village Karawra Manakpur, for the year 1978, at entry No. 30 dated 23.10.1978, the name of girl Bhateri D/o Dhan Singh S/o Girdhari, agriculturist by profession, Caste Ahir, R/o village Karawra Manakpur, P.S. Jatusana, Teh. Rewari, exists. The date of birth against this entry is written as 18.10.1978. The name of the mother of Bhateri is written as Phool Kaur. Since, it is proved, that the prosecutrix is also known as Bhateri, the certificate Ex.PW12/A, is connected with her. The trial Court was right in arriving at this conclusion. Under these circumstances, the submission of the Counsel for the appellant, in this regard, stands rejected.

14. Now coming to the age of the prosecutrix, it may be stated here, that the relevant entry, in the register, was made by a public servant, in the due discharge of his official duties. Presumption of correctness is, thus, attached to the official acts, performed in the regular course of the discharge of official duties. Ex.PW12/A, the birth certificate of Bhateri also known by the name of the prosecutrix, clearly proves that she was born on 18.10.1978, and the entry of her birth was made on 23.10.1978. The occurrence took place, in this case on 23.12.1993. It means, at the time of occurrence, the prosecutrix was aged about 15 years and 2 months. The prosecutrix, when appeared as PW-4, also gave her age as 16 years and a few months as on 28.10.1994. In her statement Ex.PF, made by her on 25.12.1993 i.e. two days after the occurrence, on the basis whereof, the FIR was recorded, she gave her age as 15/16 years. Even her mother gave her age as 16 years as on 28.10.1994, when she appeared as PW-5. No doubt, Dr. Vinod Kumar Yadav, (DW-1), Medical Officer, Civil Hospital, Rewari, who conducted the ossification test of the prosecutrix on 29.12.1993, found that her age was approximately 18 to 19 years. During the course of his cross-examination, he stated that the ossification test could only give approximate age, with a variation of about 3 years, on either side. It may be stated here, that the ossification test regarding the determination of age, cannot be said to be a conclusive test. Under these circumstances, no reliance could be placed thereon, in the face of the reliable evidence, regarding the age of the

prosecutrix, in the shape of Ex.PW12/A, her birth certificate. The trial Court was, thus, right in holding that at the time of occurrence, the age of the prosecutrix, was about 15 years. The submission of the Counsel for the appellant, in this regard, being without merit, must fail, and the same stands rejected.

15. It was next submitted by the Counsel for the appellant, that the prosecutrix, was a consenting party. The submission of the Counsel for the appellant, in this regard, does not appear to be correct. Since, it has been held above, that the age of the prosecutrix was about 15 years, and less than 16 years, at the time of occurrence, she was minor, and, therefore, whether she was a consenting or non-consenting party, hardly mattered. The consent of a minor, is no consent in the eyes of law. No doubt, the prosecutrix stated during the course of her cross-examination, that she appeared in the School Examination on the date of occurrence at 12.45 PM, and returned home after the conclusion of the same. The Counsel for the appellant, from this circumstance, contended that had rape been committed with the prosecutrix, she would not have gone to the school to appear in the examination, immediately after the occurrence. It may be stated here, that had the prosecutrix not gone to the School, to appear in the examination, then her friends, the friends of the family, relatives and other known persons" to the family, might have made enquiries, as to what had happened to her, preventing her from appearing in the examination. In that event, it would have been difficult for the members of the family, to answer the unwarranted queries. It was, under these circumstances, so as to avoid unwarranted enquiries, that her mother took a wise decision, to send her to appear in the examination, which was to be held, on that very day, as by that time, the occurrence was almost a secret affair, between the mother and the daughter, as the father of the prosecutrix, was not in the house, and had gone to some other village. The mere fact that, she took examination, in the school, on that date, did not, in any way cast any reflection, on her evidence, nor did it go to prove that she was a consenting party. In this view of the matter, the submission of the Counsel for the appellant, stands rejected.

16. Last of all, the Counsel for the appellant contended, that the accused/appellant was convicted as far back on 5.6.1995, and has been facing the agony of protracted criminal proceedings, for the last about 12 years. He, further submitted that, under these circumstances, leniency be shown to him, in the matter of sentence. He also placed reliance on and, in this regard. The aforesaid cases were decided, in view of the peculiar facts and circumstances, prevailing therein. These cases do not lay down an invariable principle of law, that in every case, in which the accused has been facing the criminal proceedings, for a long period, his sentence should be reduced. In my opinion, the appellant by committing rape, with a minor girl, caused a permanent slur on her entire life. Her chances of marriage, became very bleak. She would be looked down upon in the society, on account of the stigma caused by the appellant, on her. Therefore, there is no ground to reduce the minimum sentence, awarded to the accused, by the trial Court. The submission of the Counsel for the appellant, in this regard,

therefore, stands rejected.

17. The trial Court, while awarding sentence of six months for the offence u/s 506 of the Indian Penal Code, did not specify whether it was rigorous or simple. To make the matters clear, it is directed that this shall be taken as rigorous imprisonment.

18. In view of the above discussion, it is held that the judgment of conviction, and the order of sentence, rendered by the trial Court, with the aforesaid clarification, are based on the correct appreciation of evidence, and law, on the point. The same do not warrant any interference, and are liable to be upheld.

19. For the reasons recorded, hereinbefore, the appeal with the aforesaid clarification, is dismissed. The judgment of conviction dated 5.6.1995, and the order of sentence, dated 6.6.1995, are upheld. The accused/appellant, who is on bail, is ordered to surrender to his bail bonds, to undergo the remaining part of the sentence. The Chief Judicial Magistrate Rewari, shall take all necessary steps, in accordance with the provisions of law, to comply the order with due promptitude.