

(1995) 01 SC CK 0047

In the Supreme Court Of India

Case No : Criminal Appeals No. 108 Of 1987 With No. 335 Of 1987

Ram Kumar and Nain Singh

APPELLANT

Vs

State of H.P.

RESPONDENT

Date of Decision : 10-01-1995

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 376

Citation : AIR 1995 SC 1922 : (1995) 52 ECC 6 : (1996) 82 ELT 174 : (1997) 10 SCC 285

Hon'ble Judges : M. M. Punchhi, J;K. Jayachandra Reddy, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This case relates to a custodial rape. The Court of Session acquitted the two appellants herein of the crime but the High Court recorded convictions under more than one heads, besides rape and sentenced substantively Nain Singh appellant to seven years" rigorous imprisonment and Ram Kumar appellant to two years" rigorous imprisonment which has given rise to these appeals.

2. Learned counsel for the respective appellants have been at pains to urge that the judgment of the Trial Judge is far more convincing than that of the High Court. It is inevitable that each Court would justify its order by assigning appropriate reasons. We cannot cast any preference of one over the other. We have thus resorted to the reading of the statement of the prosecutrix. She was married to Khem Raj PW-4 and had been residing at Chadigarh wherefrom the couple had been fetched to Rajgarh in Himachal Pradesh by Chuhar Singh. PW-1, brother of Khem Raj. On the fateful night, the prosecutrix and her husband were sleeping in the house of Chuhar Singh where around midnight they were rudely awakened by the two appellants; one of whom i.e. Nain Singh was an Investigating Head Constable and the other Ram Kumar just a constable posted at Rajgarh Police Station. On the ostensible but false plea that a wireless message had been received from Chandigarh indicating the prosecutrix to be an

abducted girl, she and Khem Raj. PW were forcibly taken by the appellants to the police station. There they were kept in separate rooms. In one of the rooms. Nain Singh, appellant, first brutally hit her, then molested her, and finally raped her. Her shrieks were heard in the room where Khem Raj, PW. was confined. Guarding him kept sitting Ram Kumar, appellant. He did not react to it. His conduct right from the act of his forcibly taking separately the prosecutrix by arm to the Police Station, her separate confinement in a room, Nain Singh misusing his position and having forcibly raped her and Ram Kumar-appellant not doing anything about it while keeping a watch over the husband, reflected a mind of consistency in aiding and abetting the commission of crime of rape. The prosecutrix is not only a reliable witness but her word directed against the appellants bears a ring of truth for no explanation whatsoever as to why the appellants have been accused of the offence has been rendered. Her word is corroborated by the evidence of not only her husband, Khem Raj, PW-4, but her brother-in-law, Chuhar Singh, PW-1, Besides this evidence, we have the evidence of local people who had seen the prosecutrix being led to the Police Station and that of Dr. Rama Nand. PW-6 who was approached by Chuhar Singh, PW to seek help because of the illegal confinement of the prosecutrix and her husband. The entire conspectus was viewed by the High Court in vivid detail to come to the conclusion that the appellants were guilty of the crime. The cryptic judgment of the Court of Session was rightly upset by the High Court.

3. For the above reasons, we find no cause to interfere in the judgment under appeal. It would however be fair to learned counsel for Ram Kumar, appellant, to highlight an argument put forth to the effect that Ram Kumar should not be held guilty of abetment of crime of commission of rape as he could not anticipate the designs of Nain Singh. As stated above, his conduct and consistency were towards facilitating that crime as otherwise he would have reacted on the hearing of the shrieks of the hapless prosecutrix who was a young girl aged about 19 at that time. His turning deaf ears to her cries was the finale on his conduct and he must be assumed to have had this end in mind when he dragged the prosecutrix forcibly to the Police Station. Having come to this view, we unhesitatingly uphold the judgment and order of the High Court and dismiss these appeals. The appellants are on bail. They are directed to surrender forthwith to their bail bonds.

4. Ordered accordingly.