

A SRIVALLA SRINIVASA RAO & ORS.
V.
STATE OF A.P.
(Criminal Appeal No. 671 of 2009)

B JULY 14, 2011

[HARJIT SINGH BEDI AND GYAN SUDHA MISRA, JJ.]

PENAL CODE, 1860:

C *s. 376 (2) (g) – Gang rape – Three accused convicted of*
the offence – Pleas of non-corroboration of version of
prosecutrix and delay in lodging the FIR – Held: The
evidence of prosecutrix is supported by the evidence of two
more witnesses who reached the place of incident on hearing
D *her shrieks – Besides, the medical evidence indicating*
duration of injuries, the Forensic Science Laboratory report,
the broken pieces of glass bangles recovered from the place
of incident and the torn clothes of the victim fully support the
factum of rape – If some delay is occasioned in registering
E *the FIR, that cannot in any way detract from the other credible*
evidence – Conviction and the sentence of seven years Rl
upheld – Evidence – Delay in lodging FIR.

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal
No. 671 of 2009.

F From the Judgment & Order dated 9.4.2008 of the High
Court of Andhra Pradesh at Hyderabad in Criminal Appeal No.
562 of 2000.

G Guntur Prabhakar for the Appellants.

D. Mahesh Babu, Ramesh Allanki for the Respondent.

The following Order of the Court was delivered

ORDER

1. The appellants, eight in number, were brought to trial for offences punishable under Sections 376 (2g), 323 and 354 of the Indian Penal Code. The trial court on a consideration of the evidence acquitted the appellants for the offence punishable under Section 354 but convicted A1 to A3 under Section 376(2g) and imposed a sentence of 10 years' rigorous imprisonment whereas a fine of Rs. 1,000/- was levied for the offence punishable under Section 323 IPC on all the eight accused. An appeal was thereafter taken to the High Court and the High Court reduced the sentence awarded to A1 to A3 from ten years to seven years rigorous imprisonment and with this modification in the order of the trial court, dismissed the appeal. It is in this background the present appeal has come before us for consideration after the grant of special leave.

2. The facts of the case are as under:

2.1. At about 6:00a.m. on the 22nd of March, 1986 the victim P.W. 1, left her village for village Pidana to sell milk. As she was on her way she was accosted by A1 to A3 who were coming from the opposite direction. They abused P.W. 1 and beat her thereafter. They also took her to the nearby field of one Chintalu and committed rape on her. In the meantime, A4 to A8 also came there and pointed out that it was not sufficient punishment for her to be raped but she should also be given a severe beating to teach her a lesson. All the accused thereupon beat her still further. The cries of the victim attracted some of the villagers who were closeby and on reaching there they found that her clothes had been torn and that she was in a traumatised state. The villagers took her to her village where she narrated the incident to her co-villagers and on their advice made her way to the police station at about 8:30p.m. and lodged a report with the Sub Inspector alleging the facts as given above. The investigating officer then visited the scene of occurrence and seized broken pieces of glass bangles in

A the presence of witnesses. He also arrested the accused and seized the clothes they had been wearing at the time of the incident and also sent A1 to A3 for their medical examination.

B 2.2. On the completion of the investigation, a charge sheet was, accordingly, filed against the eight accused for offences punishable under Section 376(2g), 114, 354 and 323 read with Section 34 of the Indian Penal Code and they were committed for trial to the Court of Sessions and were, accordingly, charged and tried for the aforesaid offences with the results already mentioned above.

C 3. Mr. Guntur Prabhakar, the learned counsel for the appellants, has raised several arguments before us during the course of hearing. He has first pointed out that but for the self-serving evidence of P.W. 1, the complainant who as also the victim of rape, there was no independent evidence with respect to the involvement of the appellants. He has also pointed out that the medical evidence did not indicate the commission of rape more particularly, as these injuries were no on the back of the victim. It has also been urged that as the FIR had been lodged belatedly the prosecution story had been created in suspicious circumstances.

F 4. The learned counsel for the State of Andhra Pradesh Mr. D. Mahesh Babu has, however, supported the judgment of the trial court and the High Court and has urged that no interference was called for as the courts below had found that the primary evidence against the appellants was that of the victim herself wherein she had stated that she had been accosted by A1 to A3 who had then carried her to the fields close by and raped her and accused A4 to A8 had also arrived at the site thereafter and all the accused had caused injuries to her. We, further find that the statement of P.W. 1 is corroborated by the statements of P.W. 2 and 6 who were attracted to the place of incident on hearing the shrieks of the victim. We are, therefore, of the opinion that the statement of these witnesses inspires confidence.

5. It is true that there appears to be some delay in the lodging of the FIR but in a case of rape and that too in a gang rape, some delay is inevitable. The incident is said to have happened at about 6:00a.m. and P.W. 1 had reached the police station at about 8:30p.m., the same evening and the formal FIR recorded a few hours thereafter. She had also been subjected to a medical examination at about 11:30p.m. and P.W. 12 Dr. C. Anantha Lakshmi, the lady Medical Officer, found that the injuries on the victim had been caused during the commission of rape. P.W. 12 also observed that the saree and blouse of the victim had been torn and that she had multiple injuries on her person including the arms, chest and breasts. She also opined that injuries could have been suffered within 24 hours or so. The time factor also fully supports the factum of rape. Moreoever, we see that the vaginal swabs taken from P.W. 1 had been sent for examination to the Forensic Science Laboratory, Vijayawada which in its opinion rendered on the 21st July, 1996, found semen stains thereon. Likewise, the police officer had picked up broken glass bangles from the place where the rape had been committed. In this background, though there is some delay in lodging of the FIR this can be over looked. A victim of gang rape inevitably suffers acute trauma and it is some time before such a victim is in a position to make a lucid and sensible statement. Moreover, rape itself brings enormous shame to the victim and it is after much persuasion that a rape victim goes to the police station to lodge a report and if some delay if occasioned that cannot in any way detract from the other credible evidence.

6. We thus find no merit in the appeal which is, accordingly, dismissed.

R.P.

Appeal dismissed.