
Sawai Singh Vs State of Rajasthan and another

Cr. Appeal No. 513 of 2014.

Court: RAJASTHAN HIGH COURT

Date of Decision: Feb. 19, 2016

Acts Referred:

Penal Code, 1860 (IPC) " Section 342, 363, 367

Citation: (2016) 3 CriCC 175 : (2016) 1 WLCRajUC 635

Hon'ble Judges: Gopal Krishan Vyas; P.K. Lohra, JJ.

Bench: Division Bench

Advocate: Pritam Solani, Advocate, for the Appellant; J.P.S. Choudhary, Public Prosecutor, for the Respondent

Final Decision: Dismissed

Judgement

1. In this cr. appeal filed by the complainant, the complainant is challenging the validity of the judgment dated 24.4.2014 whereby the learned

Addl. Sessions Judge, Abu Road, acquitted the respondent no.2 from the charges levelled against him.

2. As per the facts of the case on 26.7.2012 at 5.30 pm, the missing report (Ex.P/1) was submitted by the appellant at Police Station, Mount Abu

in which it was specifically stated that complainant's wife Smt. Roshani Devi left the house in the night at 1.30 pm on 24.7.2012 and she is not

traceable.

3. The missing report was registered at Police Station, Mount Abu. Thereafter on 7.9.2012 at 4.00 pm the complainant filed a written complaint

(Ex.P/2) at Police Station Mount Abu in which the allegations were levelled by him that he has received mobile call from his wife Roshani Devi that

respondent Het Ram after giving threat forcibly take her against her wishes to get married with her. Certain other allegations were also levelled as

per the information by the complainant. Upon aforesaid written report FIR no.18/2012 was registered against the respondent under Section 342,

363 and 367 IPC in which after investigation, the respondent Het Ram was arrested and statements of prosecutrix were recorded under Section

164 Cr.P.C. After completing investigation, challan was filed against the respondent Het Ram in the court of Addl. Chief Judicial Magistrate,

Mount Abu from where the case was committed for trial to the court of Addl. Sessions Judge, Abu Road.

4. The learned trial court after framing charge granted an opportunity to lead evidence. From the prosecution side, statements of 9 witnesses were

recorded including statements of PW-3 Roshani Devi. Thereafter, the statements of respondent Het Ram were recorded under Section 313

Cr.P.C. and finally the matter was heard and decided by the learned trial court vide impugned judgment dated 24.4.2014 whereby the respondent

is acquitted from the charge levelled against him.

5. Learned counsel for the appellant submits that the finding given by the learned trial court is totally erroneous because as per the statements of

prosecutrix offence under Section 376 IPC is made out. The learned trial court completely ignored the statements of prosecutrix so as to acquit the

respondent, therefore, the judgment impugned may kindly be quashed.

6. After hearing the learned counsel for the appellant we have perused the finding given by the learned trial court. The learned trial court observed

in the order that the prosecutrix is more than 41 years of age and before the present incident she willingly went with the respondent for which DB

Habeas Corpus Petition No.3000/2012 was filed by the complainant in which it was observed by the Division Bench of this Court vide order

dated 16.4.2012 that prosecutrix Smt. Roshan Devi went along-with the respondent as per her own will. The said order was placed on record as

Ex.D/1, which reads as under:

Alleged Alleged detenue Smt. Roshan Devi who is produced before the Court through Government Advocate stated that she left her house

voluntarily and she was not abducted by Het Ram @ Chet Ram. She also desires to stay with her husband Shri Sawai Singh.

In view of the statement so given, we are not inclined to proceed further with the habeas corpus petition, accordingly the habeas corpus

petition stands disposed off. Smt. Roshan Devi is at liberty to move as per her own will and wish.

7. Upon perusal of the above order it is abundantly clear that prosecutrix left the house at her own earlier, therefore, the learned trial court

disbelieved the statement of prosecutrix for the reason that from 24.7.2012 to 4.9.2012 prosecutrix lived with the respondent and thereafter, a

concocted and false story is knitted.

8. In our view, the finding arrived at by the learned trial court does not require any interference because it is an admitted position of the case that

prosecutrix earlier left the house and went along-with the respondent and, thereafter, again she left the house at her own will with the respondent,

but later on, gave telephone information to his son with regard to incident.

9. In view of the above, we are of the opinion that finding arrived at by the learned trial court for acquittal does not suffer from any illegality or

perversity.

10. Hence, this cr. appeal is hereby dismissed.