
Devaram @APPELLANT@Hash State of Rajasthan & Ors

Criminal Appeal No. 495, 660, 1153 of 2016

Court: Rajasthan High Court (Jaipur Bench)

Date of Decision: Sept. 20, 2018

Acts Referred:

Indian Penal Code, 1860 " Section 107, 120B, 306, 376(2)(g), 497, 498A#Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 " Section 3(2)(V)#Code of Criminal Procedure, 1973 " Section 161, 164, 313, 437A

Hon'ble Judges: Pankaj Bhandari, J

Bench: Single Bench

Advocate: S.S. Hora, T.C. Sharma, Vijay Choudhary, B.M. Gurjar, Sudesh Saini

Final Decision: Allowed

Judgement

1. Appellants have preferred these appeals aggrieved by judgment and order dated 18.04.2016, passed by Special Judge SC/ST Cases, Jaipur in

Sessions Case No.48/2011, whereby appellants Devaram and Basram @ Vishram have been convicted for offence under Section 376(2) (g) read

with Section 120-B IPC in alternate Section 107 IPC and both appellants have been sentenced to ten years rigorous imprisonment and fine of

Rs.5,000/-, on non payment of fine, appellants Devaram and Basram @ Vishram to further undergo three months simple imprisonment. Appellants

Devaram, Basram @ Vishram and Shakuntala have been convicted for offence under Section 306 IPC and sentenced to ten years rigorous

imprisonment and fine of Rs.5,000/-, on non payment of fine to further undergo three months simple imprisonment. Appellant Devaram has further

been convicted for offence under Section 497 IPC and three years rigorous imprisonment has been imposed, aggrieved by which the present appeal

has been preferred.

2. In brief, the factual matrix of the case are that a complaint Ex.P-26 was lodged by Heera Lal on 23.03.2010 which was sent by the Court to the

police for registration, and consequently, F.I.R. was registered on 07.04.2010. In the complaint it was alleged by Heera Lal that appellant-Shakuntala

is his wife who is residing with Devaram. He being a teacher in a Government Secondary School, appellant Devaram in his absence started having

illicit relations with his wife Shakuntala and when he objected to the same, dispute took place between him and appellant Shakuntala. It is also

contended that appellant-Devaram enticed his daughter and his wife to go with him, upon which missing person report was lodged on 25.04.2009, at

Police Station, Chandvaji. Police recovered his wife and daughter on 29.04.2009 from Merta City and their custody was given to his maternal-in-laws.

3. It is further alleged that from matrimonial house also Devaram enticed his wife and daughters and took them away from one place to another.

Complainant tried his best to trace his wife and daughters but in vain. It is mentioned that around two months back his daughter called him and

informed him that Devaram is bent upon selling her. She also informed that she is being forced to have illicit relations with Ajay. On 06.03.2010 at

around 5:00 pm, he received a call from Police Station, Nahargarh that his daughter has committed suicide upon which he reached the hospital. His

younger daughter who was present at the hospital informed him that the deceased was objecting to the relations between appellant Devaram and her

mother-Shakuntala and she was forced to have illicit relations with Ajay. Police after due investigation submitted charge-sheet against the appellants

and one Babulal.

4. Court after hearing arguments, framed charges against Devaram for offence under section 306, 376(2)(g), 497 and 120-B IPC. Shakuntala was

charged for offence under Section 306, 376(2)(g) and 120-B IPC. Babulal and Basram were charged for offence under Section 306, 376(2)(g) and

120-B IPC and Section 3(2)(V) SC/ST Act. Accused denied the charges and sought trial, upon which as many as twenty three witnesses were

examined on behalf of the prosecution and twenty six documents were exhibited. Explanation of accused were recorded under Section 313 Cr.P.C.

and two witnesses were examined and sixty five documents were exhibited in defence. Court after hearing final arguments acquitted Babulal but

convicted the appellants as herein above mentioned, aggrieved by which present appeals have been preferred.

5. It is contended by counsel for the appellant-Shakuntala who is mother of deceased and wife of complainant-Heera Lal that a false case has been

registered against her as she was having strained relations with her husband. She had lodged a complaint under Section 498-A IPC against the

complainant in the year, 2005. Thereafter, she again lodged a complaint against her husband on 19.03.2009. It is contended that since

appellant-Shakuntala was not residing with her husband, her husband has concocted a false story. It is also contended that the story of prosecution that

appellant-Shakuntala forced her daughters into illicit relationship, cannot be believed as appellant herself prior to suicide of the deceased filed a

complaint Ex.D-7 at Police Station, Jamvaramgarh on 10.01.2010, regarding harassment of her daughter by few boys, document Ex.D-7 bears

signatures of her daughter.

6. It is contended that on the missing person report, Police recovered Shakuntala and her two daughters. Statement of Monika was recorded by the

Police which is exhibited as Ex.D-6, therein also she has mentioned that she along with her mother and sister left the house of her father on

25.04.2009 and after going to different places i.e. Gatwara, Shahpura, Ajeetpura, Chomu and Ganganagar they reached Merta city where a boy

named Surendra got a room booked for them at Prince Hotel. It is specifically mentioned that they stayed in a room and no untoward incident took

place with them and the Police recovered them on the next day. It is argued that Monika under influence of her father has now implicated the

appellants.

7. It is also contended that there is inordinate delay in lodging of complaint and in the complaint, there is no allegation against the appellant-Shakuntala

of forcing her daughters to have illicit sexual relations. It is also contended that the case rests on solitary statement of appellant's younger

daughter but that statement cannot be relied as she was under influence of her father.

8. It is also contended that the allegation that appellant's younger daughter was forced into illicit relationship is not established as her younger

daughter was not subjected to medical examination. The factum of deceased being subjected to beating a day prior to her committing suicide is also

not established as there was no mark of injury on her person. It is also contended that deceased was having relations with a boy and the possibility that

she committed suicide because of that boy cannot be ruled out.

9. It is further contended that the appellant-Shakuntala and her daughters and appellant-Devaram stayed in Prince Hotel in Merta City is not

established, as no hotel record was produced to establish that two rooms were taken at the hotel.

10. My attention has also been drawn towards Ex.D-6, wherein appellant's younger daughter has not levelled any allegation with regard to rape.

The presence of Devaram and Sadhu Ram is also not shown in Ex.D-6. My attention has also been drawn towards Ex.P-8 the report filed by

appellant's mother with regard to suicide of her daughter on 06.03.2010. Statement of prosecutrix was recorded in the inquiry with regard to

missing persons report, in her statement she has clearly mentioned that no untoward incident has taken place with her.

11. It is also contended that appellant-Shakuntala lodged a complaint Ex.D-7 on 10.01.2010 to bring to the notice to the police the threat that she was

receiving from some boy and the threat was that they would kidnap her daughters, regarding this, document Ex.D-7 bears the signatures of

prosecutrix. Ex.D-8 is her statement given in relation to report Ex.D-7, wherein also she has mentioned that she is receiving calls from Ramesh

Kumar and Raju and they are threatening to kidnap her.

12. It is further contended that the dispute between the appellant-Shakuntala and complainant is further established from affidavit of prosecutrix Ex.D-

9, wherein she has mentioned that complainant-Heera Lal was demanding Rs.8,00,000/- to 9,00,000/- after his father-in-law retired and he was asking

for his share in the property of his father-in-law. She has further deposed in her affidavit that her mother, disturbed by continuous torture, left the

house.

13. My attention has also been drawn towards Ex.D-12, affidavit of Gulab Singh, father of appellant-Shakuntala which corroborate the fact of demand

of money by complainant-Heera Lal.

14. It is also contended that prosecutrix in her statement Ex.D-13 recorded before the Magistrate on 23.06.2010, did not make any allegation with

regard to rape at Merta City. It is also argued that prosecutrix has changed her version at different places. She had not levelled allegation with regard

to rape in the complaint which was filed after an inordinate delay of seventeen days.

15. Counsel for the appellant-Devaram has argued that Devaram has been falsely implicated as he was helping Shakuntala in her matrimonial dispute

with Heera Lal. It is contended that complainant Heera Lal in the complaint lodged after an inordinate delay, did not make any mention of rape being

committed by Devaram. It is contended that as per the complaint, the allegation was that appellant Devaram was forcing the deceased to have illicit

relations with Ajay, police has not investigated the complaint from that angle.

16. It is also contended that statement of Monika does not inspire confidence as initially in the statement recorded under Section 161 Cr.P.C. Ex.D-10

and affidavit Ex.D-9, there was no mention that Devaram enticed Shakuntala and took her and her daughters with him.

17. It is argued that material improvement have been made by prosecutrix in her Court statement. It is also contended that Monika and Shakuntala

filed a complaint Ex.D-7 in January, 2010, before the SHO Police Station Jamvaramgarh, wherein there was allegation against Ramesh Kumar

Meena, Rajesh Kumar Meena and Raju Meena of making vulgar comments and threatening to kidnap Monika. Statement of Monika was also

recorded in that complaint which is exhibited as Ex.D-8, wherein also there is no allegation with regard to rape against the appellant-Devaram and

Basram.

18. It is contended that appellant got himself examined as DW-1, wherein, he stated that he was State President of Ambedakar Vichar Manch

Sansthan from 2001. Work of the Sansthan was to help the poor and deprived persons. In 2005, father of Shakuntala informed him that her husband

treats her daughter with cruelty, thereupon F.I.R. No.216/2005, was lodged at Police Station Chandwaji which is exhibited as Ex.D-19. In that

complaint Heera Lal the present complainant gave an affidavit which is exhibited as Ex.D-1, which bears his signature from C to D. Thereafter, on

28.04.2009, when Gulab Singh informed him about missing of his daughter and grand daughters, he made a complaint to the Chief Minister Office

which is exhibited as Ex.D20 on which she was recovered by the Police on 29.04.2009, Shakuntala gave a letter to him which is exhibited as Ex.D-22,

dated 23.07.2009. When inquired by him it was found that SHO Police Station Chandwaji had done wrong investigation upon which he gave a letter

Ex.D-23, to Additional Director General (ADG) Crimes on 06.07.2009, which is Ex.D-23. On this complaint SHO Anoop Singh was chargesheeted.

Charge-sheet has been exhibited as Ex.D-24 and Anoop Singh was censured vide Ex.D-5, dated 25.03.2010.

19. The investigation of the case was then transferred to Additional Superintendent of Police. In that case also complainant tried to pressurize the

appellant upon which a complaint was given to the Human Rights Commission. The complaint given on 20.02.2010, by Devaram to Human Rights

Commission was exhibited as Ex.D-28. Human Rights Commission passed order which is Ex.D-29. Shakuntala then filed a complaint, Ex.D-30,

before Additional Judicial Magistrate Jaipur District, Jaipur on 04.05.2009, against Heera Lal and others. Police submitted charge-sheet Ex.D-31,

against Heera Lal. Name of appellant Devaram is appearing in the charge-sheet Ex.D-31 submitted by the Police.

20. It is further contended that complainant-Heera Lal filed a divorce petition before the Family Court No.2, Jaipur, wherein he levelled allegation with

regard to adultery, the same is exhibited as Ex.D-64. It is argued that appellant-Devaram has produced relevant record to establish that Heera Lal was

having enmity with the appellant as he was the State President of Ambedkar Vichar Manch Sansthan and was helping Shakuntala in her matrimonial

dispute. , , , ,

21. It is also contended that the allegation that the wife of complainant and her daughters went away with Heera Lal is at the face of it false as Heera

Lal himself sent a letter to the Chief Minister on 28.04.2009, regarding missing of Shakuntala and her daughters. The complaint sent to the Chief

Minister is exhibited as Ex.D-20 and the letter written by the Chief Minister's office to the Superintendent of Police, Jaipur Rural is exhibited as

Ex.D-21.

22. Counsel for appellant-Basram @ Vishram has contended that appellant-Basram @ Vishram is not named in the complaint. There is no allegation

of rape against him in statement recorded under Section 161 Cr.P.C. Ex.D-10. Further there is no allegation with regard to rape in the affidavit given

by the deceased Ex.D-11 on 11.05.2009. It is also contended that Ex.P-7 does not bear the signature of Basram and Basram never went to the

hospital with the deceased for getting her fetus aborted.

23. It is contended that the deceased was having affair with a boy named Rahul. In the suicide note also she has not mentioned name of any persons

and suicide note is undated. It is also contended that Babulal was acquitted by the Court as Monika deposed before the Court that this is not Babulal

who had committed rape with her sister. It is argued that the deceased was a major, even if her fetus was aborted, it cannot be presumed that gang

rape was committed with her. Further deceased had given an affidavit just prior to her death to the police, wherein also she has not levelled any

allegation with regard to rape against the appellants. The possibility that she conceived because of her relations with some other boy named Rahul can

not be ruled out. 24. It is contended by counsel for the appellants that if material contradiction are there and there are totally conflicting versions of

prosecutrix as to what was stated in complaint and what was deposed before the Court, conviction cannot be sustained.

25. In support of this argument, counsel for the appellants has placed reliance on *ĀĀRai Sandeep Alias Deepu vs. State (NCT of Delhi)* (2012) 8

Supreme Court Cases 21.

26. Reliance has also been placed on *ĀĀNarender Kumar vs. State (NCT of Delhi)* (2012) 7 Supreme Court Cases 171, wherein Apex Court has

held that conviction can be based on sole testimony of prosecutrix without any corroboration, if it inspires confidence. If Court finds the version of

prosecutrix improbable and devoid of trust, same is to be rejected. It was also observed if the statement suffers from serious infirmities,

inconsistencies and deliberate improvements on material point, reliance cannot be placed thereon.

27. Reliance has also been placed on *ĀĀKrishan Kumar Malik vs. State of Haryana* (2011) 7 Supreme Court Cases 130, wherein accused was

acquitted as there were several lacunae in the evidence of prosecutrix and story was not corroborated by any other evidence. There were

discrepancies and omissions in F.I.R. Name of accused was not mentioned even when prosecutrix was aware of his name. Court held that such

omissions shake credibility of the prosecutrix.

28. With regard to delay, reliance has been placed on *ĀĀRamdas and Ors. vs. State of Maharashtra* (2007) 2 Supreme Court Cases 170, wherein

the Apex Court held that delay in lodging of report may not by itself be fatal to the case of the prosecution, but the delay has to be considered in the

background of the facts and circumstances in each case. The Apex Court gave benefit of doubt to the accused in a case under Section 376 IPC when

F.I.R. was lodged after eight days of the alleged occurrence, for which no satisfactory explanation was rendered.

29. Counsel for the complainant and learned Public prosecutor have opposed these appeals. Their contention is that the Court below has passed

detailed judgment dealing with all the objections raised by counsel for the appellants. It is contended that there is no reason why prosecutrix would

depose against her own mother, when it has come on record that she was not happy with her father, who was always quarreling with her mother and

she left her father's house with her mother. It is also argued that baring minor discrepancy statement of prosecutrix is sterling worth and the

judgment of the Court below which places reliance on the statement of prosecutrix cannot be said to be bad in law.

30. With regard to delay in lodging of the complaint, it is contended that prosecutrix was under a shock due to demise of her sister and it is only after

she came out of the shock and disclosed the incident to her father that the complaint was lodged. The delay in lodging of complaint is thus explained.

31. Learned Public Prosecutor has further contended that PW-3-Kailash Chand, owner of the house situated at Jailal Munshi Ka Rasta, has stated

before the Court that Devaram took his house on rent on 06.02.2010. He came with Shakuntala and her daughters and introduced himself as husband

of Shakuntala and considering that it was a family, he let out the premises. It is argued that no enmity whatsoever is shown by the appellant with PW-

3 Kailash Chand. It is further contended that as appellant Devaram was staying with appellant-Shakuntala as husband and wife, therefore, the fact that

they were living in adultery is proved beyond reasonable doubt and Court below has not erred in convicting the appellant-Devaram for offence under

section 497 IPC.

32. I have considered the contentions.

33. Appellant-Shakuntala is mother of the deceased and appellant-Devaram is a distant relative of Shakuntala, Shakuntala was not in good terms with

her husband. She had lodged complaint under Section 498-A IPC against Heeralal in the year, 2005, thereafter, she again lodged a complaint against

Heeralal on 19.03.2009. Devaram was State President of Ambedakar Vichar Manch Sansthan which was formed for helping the poor and deprived

persons. When Devaram received information about Heeralal treating Shakuntala with cruelty, Devaram gave an affidavit in F.I.R. No.216/2005

lodged by Shakuntala. Affidavit is exhibited as Ex.D-1. When Shakuntala alongwith her daughters went missing in 2009, appellant-Devaram made a

complaint to the Chief Minister Office Ex.D-20, on which Shakuntala alongwith her daughters was recovered by the police on 29.04.2009.

Appellant Devaram after receipt of a letter from Shakuntala Ex.D-22, gave complaint to Additional Director General, Crimes on 06.07.2009 which is

annexure D-23. On this complaint, S.H.O. Anoop Singh was charge-sheeted and was punished vide Ex.D-5 on 25.03.2010. The investigation of the

case was then transferred to Additional Superintendent of Police where also Heeralal tried to pressurize the appellant, upon which complaint was

given to Human Rights Commission by appellant-Devaram. The same is exhibited as Ex.D-28. Appellant-Shakuntala thereafter, filed a complaint

Ex.D-30 before Additional Judicial Magistrate, Jaipur District, Jaipur on 04.05.2009. Police in that case submitted charge-sheet Ex.D-31 against

Heeralal. Name of appellant Devaram is appearing in the charge-sheet submitted by the police. Thus it is clear that complainant-Heeralal was having

enmity with his wife-Shakuntala and appellant-Devaram.

34. It is also revealed from perusal of the record that daughter of Shakuntala and Heeralal committed suicide on 06.03.2010, complaint was lodged on

23.03.2010. In the belated complaint, the allegation was that deceased was pressurized to have illicit relations with Ajay and for that reason she

committed suicide. The story was later on developed to implicate the appellants for graver offence. It is important to note that the allegation that

appellant forced the deceased to have relations with Ajay is not supported by sister of the deceased. Ajay was neither arrested nor put to trial and the

investigation has not revealed that the deceased was threatened to have illicit relations with Ajay. The allegation in the complaint were thus not

established.

35. Yet another piece of evidence which is very relevant is filing of complaint by Shakuntala at Police Station, Jamvaramgarh on 10.01.2010 Ex.D-7

regarding harassment of her younger daughter by few boys. This complaint bears signatures of the deceased. Thereafter statement of the deceased

was also recorded in this case which is Ex.D-8, wherein also she has levelled allegation against some boys. The allegation that appellant Shakuntala

forced her daughters to have relations with others appears to be a false allegation to implicate Shakuntala.

36. It is also important to note that when the first missing person report was lodged, Shakuntala alongwith her two daughters was recovered by the

police. Statement of daughter was recorded as Ex.D-6, wherein she mentioned that she left house of her father and after going to different places i.e.

Gatwara, Shahpura, Ajeetpura, Chomu, Ganganagar, reached Merta city where a boy named Surendra got a room booked for them at Prince Hotel. It

is specifically mentioned in her statement that no untoward incident took place with them at Prince Hotel. Prosecutrix has now built up a case that two

rooms were taken at Prince Hotel and during night appellant-Devaram and Sadhu Ram committed rape with the girls. No hotel record is produced to

establish that Devaram and Sadhu Ram booked two rooms. The allegations are now levelled after a lapse of more than a year which cannot be

believed.

37. The present complaint was lodged after seventeen days of demise of deceased and was registered under Section 306, 107, 497 and 120-B IPC.

There was no allegation, whatsoever, in the complaint Ex.P-26 with regard to rape. The main allegation in the complaint Ex.P-26 pertains to Section

497 IPC. The allegations were that appellant-Devaram was having relations with appellant Shakuntala. Whatever has been stated in evidence by PW-

12 and PW-10 are an improvement on the version mentioned in the complaint. PW-10 in his examination in chief has stated that when he got

information about demise of his daughter and reached the SMS Hospital, his younger daughter came running to him and started crying and told him

that appellants Devaram and Shakuntala have killed her sister. She also mentioned that Devaram has raped her and her sister. She also mentioned that

Babulal Gurjar, Vishram Gurjar, Sadhu Ram Gurjar, Raju Meena and another Raju Meena, Chanda Meena and Devaram have raped them many

times and that due to rape, her deceased sister became pregnant and she was aborted. None of this version is appearing in the complaint. The fact

that this came to the notice of the complainant immediately after demise of his daughter and still the same was not mentioned in the complaint, goes to

show, that this story has been built up later on by the complainant, to implicate the appellants. The fact that complainant was having enmity with

appellants is established from the complaints and F.I.R. lodged by the appellants against the complainant, hence improvement from the versions

mentioned in the belated complaint cannot be made basis for conviction.

38. Further PW-10 in his cross-examination has admitted that in Ex.P-26, complaint, it is not mentioned that Devaram, Shakuntala, Babulal and

Basram got her daughter's fetus aborted. He has also admitted that it is not mentioned in Ex.P-26 that her daughter became pregnant. He has

also admitted that it is not mentioned in the complaint that Devaram has raped her daughters.

39. The other piece of evidence which has been made basis for conviction is the suicide note, no name is mentioned in the suicide note and PW-10 in

his cross-examination has admitted that no one's name was mentioned in the suicide note. Thus suicide note cannot be made basis for convicting

the appellants.

40. Prosecutrix, sister of deceased has levelled allegations with regard to rape. The first incident of rape is stated to have taken place in Hotel

Prince. The allegation is against Sadhu Ram and Devaram. Immediately on the next day, police recovered Shakuntala and her daughters, no report

with regard to rape was made, rather what was stated to the police was that they had come on their own and a boy had got the room booked for

them. The allegation has also been levelled against Babulal, Vishram Gurjar, Devaram, Sadhu Ram Gurjar, Chanda Meena, Ranu Meena and another

Raju Meena with regard to rape. In cross-examination, this witness refused to identify Babulal Gurjar and, consequently, he was acquitted by the

Court. With regard to staying at Prince Hotel, she admits that the name of the hotel is not mentioned in the complaint Ex.P-26.

41. The chances of false implication cannot be ruled out as Devaram had filed complaint against S.H.O. and in inquiry S.H.O. was punished.

Appellants Devaram and Shakuntala were further in bad terms with the complainant as Shakuntala had filed F.I.R. against the complainant and

Devaram was supporting her.

Statement of prosecutrix with regard to rape are not at all reliable since there is no mention about the same in the complaint. There is no mention

about it in the statement recorded on 30.04.2009 in the missing person report. There is no allegation with regard to rape at Hotel Prince in Merta City

in the statements recorded under Section 164 Cr.P.C. which was recorded on 23.06.2010 and which is exhibited as Ex.D-13. In Ex.D-6, it is

mentioned that the prosecutrix stayed at Prince Hotel. The statement was recorded soon after prosecutrix, her sister and mother were recovered by

the police. In the entire statement, there is no mention of the name of Devaram and Sadhu Ram. Prosecution has further failed to produce the hotel

register to establish that two rooms were taken by the prosecutrix, her sister, her mother, Devaram and Sadhu Ram.

42. Learned trial Court has not taken into consideration the inordinate delay in filing the complaint and the fact that the complaint was not having any

mention about rape being committed with prosecutrix and the deceased. Trial Court has also not taken into account the improvement made by the

witnesses to implicate the appellants and the fact that there was every possibility false implication as complainant was having enmity with appellants.

43. As far as accused-Basram is concerned, he is neither named in the complaint nor his name is appearing in the statement of the prosecutrix

recorded after she was recovered in the missing person report.

44. As far as Devaram is concerned, PW-3 Kailash Chand has deposed before the Court that he gave his house on rent on 06.02.2010 at the rate of

Rs.2,100/- per month as Devaram told him that he would stay with his wife and with his two daughters, he has also stated that Devaram took the

house on rent by showing Shakuntala as his wife. PW-12 prosecution has also deposed that Devaram and her mother were living as husband and

wife. Also appellant Devaram was aware of the fact that Shakuntala is wife of Heera Lal, still he took house of Kailash Chand showing Shakuntala as

his wife. Thus, appellant Devaram has been rightly convicted for offence under Section 497 IPC by the trial Court.

45. The statement of prosecutrix and complainant shows several lacunae. There are serious contradiction in her statement and they have made

material improvement after filing of the belated complaint. Applying *Rai Sandeep Alias Deepu vs. State (NCT of Delhi)*, *Narender Kumar*

vs. State (NCT of Delhi), *Krishan Kumar Malik vs. State of Haryana*, and *Ramdas and Ors. vs. State of Maharashtra*, conviction

under Section 376(2)(g) read with Section 120-B IPC in alternate Section 107 and Section 306 IPC cannot be sustained 46. In view of the above the

appeal filed by Devaram is partly allowed. His conviction under Section 376(2)(g) read with Section 120-B IPC in alternate Section 107 IPC and

Section 306 IPC is quashed, however, his conviction under Section 497 IPC is upheld. If he has undergone the sentence imposed under Section 497

IPC, he be released forthwith if not required in any other case.

47. Appeals of Shakuntala and Basram is allowed. They are acquitted of the charges levelled against them. They be released forthwith.

48. Appellants are directed to furnish personal bond in the sum of Rs.20,000/- and a surety bond in the like amount in accordance with Section 437-A

of Cr.P.C. before the Deputy Registrar (Judicial) within two weeks from the date of release to the effect that in the event of filing of Special Leave

Petition against this judgment or on grant of leave, the appellants on receipt of notice thereof, shall appear before the Hon'ble Apex Court. The

bail bond will be effective for a period of six months.

49. Record of the Court below be returned forthwith.