

**THE PUBLIC PROSECUTOR, HIGH COURT (ANDHRA PRADESH)... VS BADANA
RAMAYYA ON 16 APRIL, 2004**

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BACKGROUND

In a series of judicial decisions, the Supreme Court has consistently emphasized the imperative of establishing substantial doubts concerning the veracity of the prosecution's case. It is firmly entrenched in the legal doctrine that "Proof beyond doubt is a guideline, not a fetish." In the present instance, the High Court of Andhra Pradesh has once more reaffirmed the fundamental precept of "Proof beyond reasonable doubt." Furthermore, the court has called attention to a pertinent issue related to the medical examination of rape victims by male physicians, raising pertinent concerns in this regard.

FACTS

The State of Andhra Pradesh preferred an appeal against the judgment of acquittal by the Additional Assistant Sessions Judge. The case of the prosecution is that the victim was sleeping on her bed in her house and beside whom her father and mother were also sleeping. The accused sneaked into the victim's house and performed an act of rape by pressing her hands tight and without giving her an opportunity to get up, tore her saree and her bangles are broken. On hearing the victim's cries, her father woke up and tried to pull away the accused. Armed with a stick, the accused struck the father, then retreated to his nearby residence, securing the doors. The prosecution witnesses the Village Administrative Officer and Ex-Sarpanch turned hostile. The medical examination conducted by the doctor substantiated the rape allegation, confirming the father's injuries inflicted by a blunt object. Moreover, the doctor's evaluation of the accused concluded that he possessed the physical capacity for sexual activity.

Conversely, the defense contends that the victim, characterized as a person of loose morals, engaged in consensual sexual intercourse. It is asserted that her physical stamina, owing to her demanding labour, would have prevented non-consensual intercourse. The defense further

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posits that the victim falsely accused the accused due to a dispute concerning a property boundary with the defendant's wife.

ISSUES

1. Whether the judgment of acquittal is perverse.
2. Whether there is a proper appraisal of evidence and whether any miscarriage of justice occurred.

JUDGEMENT

The court examined the evidence presented by the prosecution, including the victim's testimony, medical reports, and injuries sustained by P.W.2. The court found that the evidence was reliable and trustworthy and that the lower court failed to properly appreciate it. The court also rejects the defense's argument about the victim's character, stating that character is irrelevant in this context.

The court concludes that the accused is guilty of trespass, rape, and causing hurt. However, instead of immediately imposing a sentence, the case is remitted back to the lower court to allow the accused to be heard regarding the quantum of the sentence. The court emphasizes the importance of imposing an appropriate sentence, considering factors such as the nature of the offense, the offender's background, and the need for deterrence.

In the final part of the judgment, the court discusses the seriousness of the offense of rape and the need for a deterrent sentence. It highlights that the compromise between the parties should not lead to leniency in sentencing for non-compoundable offenses like rape. The court ultimately imposes a sentence of ten years of rigorous imprisonment for the rape charge and concurrent sentences for the other offenses.

PROVISIONS APPLIED

Section 53 of the Evidence Act¹ states that "In Criminal proceedings, the fact that the person accused is of a good character, is relevant".

¹ [1872]

Section 54 of the Evidence Act states that “In Criminal proceedings, the fact that the accused person has a bad character is not irrelevant”.

Section 235(2) of CrPC² states that “If the accused is convicted, the judge shall unless he proceeds in accordance with the provisions of section 360, hear the accused on the question of sentence and then pass sentence on him according to law”.

CASE LAWS REFERRED

Honourable High Court considered the directives issued by the Apex Court

In the case of Surinder Singh vs. the State of UP:³

- Though the appellate court has full power to review the evidence upon which the order of acquittal is founded, it should not only consider every matter on record having a bearing on the question of fact and the reasons given by the Courts below in support of its order of acquittal. The appellate court must express its reasons in the judgment which led it to hold that the acquittal is not justified.
- It is obligatory for the High Court while reversing an order of acquittal to consider and discuss each of the reasons given by the trial court to acquit the accused and then to dislodge those reasons.

In the case of Sucha Singh vs. the State of Punjab⁴, “Exaggerated devotion to the rule of benefit of doubt must not nurture fanciful doubts or lingering suspicion and thereby destroy social defense”.

In the case of State of U.P vs. Ashok Kumar Srivastava,⁵ “Prosecution is not required to meet any and every hypothesis put forward by the accused. A reasonable doubt is not an imaginary, trivial, or merely possible doubt, but a fair doubt based upon reason and common sense. It must grow out of the evidence of the case”.

² Criminal Procedure Code, [1973]

³ [2003] 10 ILD 843 (SC), para 14 and 15

⁴ [2003] 10 ILD 80 (SC), para 18 and 19

⁵ [1992] AIR 840

In the case of Shivaji Sahebrao Bobade vs. State of Maharashtra⁶, “The evil of acquitting a guilty person light-heartedly as a learned author Glanville Williams in 'Proof of Guilt' has sapiently observed, goes much beyond the simple fact, that, just one guilty person has gone unpunished. If unmerited acquittals become general, they tend to lead to a cynical disregard of the law, and this in turn leads to a public demand for harsher legal presumptions against indicted 'persons' and more severe punishment of those who are found guilty. Thus, too frequent acquittals of the guilty may lead to a ferocious penal law, eventually eroding the judicial protection of the guiltless”.

In the case of Santa Singh vs. the State of Punjab⁷, the honorable High Court considered the rules prescribed by the Apex Court in awarding the sentence.

In the case of Inder Singh vs. State (Delhi Administration)⁸, the Honourable Delhi High Court observed that “Proof beyond a reasonable doubt is a guideline, not a fetish”.

ANALYSIS

The High Court, in its analysis, meticulously applied the established legal precedents set forth by the Apex Court to assess the grounds for acquittal cited in the impugned judgment. It conducted a comprehensive review of the testimonies presented by PW1, PW2, and PW3, finding them to be consistent and mutually corroborative. After a thorough reappraisal of the entire body of evidence, the High Court conclusively determined that the prosecution's account was both reliable and trustworthy.

In response to the defense's arguments, the High Court aptly pointed out that even if the prosecutrix were a woman of allegedly loose morals, leading to her divorce by her husband, it does not automatically imply her consent for sexual intercourse at an unconventional hour. The court emphasized that no rigid rule indicates that a woman accustomed to laborious work would necessarily offer less resistance compared to a more delicate person; this, it underscored, depends on various factors, including the specific circumstances and the psychological disposition of the individuals involved. From this perspective, the High Court found the prosecution's evidence to be credible and well-supported, particularly by the medical findings.

⁶ [1973] AIR 2622

⁷ [1976] AIR 2386

⁸ [1993] DMC 618

Regarding the issue of consensual activity, the High Court made a pertinent observation, noting that if the encounter were indeed consensual, there would be no apparent reason for the prosecutrix to raise an alarm. Additionally, the court addressed the quarrel that occurred between the accused's wife and the prosecutrix during the morning hours, asserting that this dispute did not support the theory that the prosecutrix willingly engaged in sexual intercourse. Instead, it indicated that no reasonable person would invite a neighbor for sexual intercourse during or immediately after a heated argument, further discrediting the defense's assertion of consensual activity.

Furthermore, the court highlighted a concerning practice: it had become routine for male doctors to conduct intimate examinations of female patients, despite the availability of female medical professionals in healthcare facilities. The High Court emphasized that it is the prosecution's responsibility to inform the court whether such examinations were conducted with the assistance of female medical personnel, rather than by male doctors directly.

CONCLUSION

The judgment touches upon various important established legal precedents and doctrines to see that justice has prevailed. The High Court framed the right set of questions to be addressed by reevaluating the entire evidence and it has made a successful attempt to counter the reasonings arrived by the impugned judgment. The judgment gave a humanitarian touch by raising its concerns over the examination of rape victims by male doctors highlighting the evil practice. It reiterated the rules concerning awarding the sentence to convicted criminals. Furthermore, it reaffirms that the legal doctrine of "Proof beyond reasonable doubt" is a guideline and not a fetish.