

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.A.No.13/2019

Date of Order: 15.02.2022

Witnar T. Sangma @ Rambong Vs. State of Meghalaya

Coram:

Hon'ble Mr. Justice Sanjib Banerjee, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant (s) : Dr. N Mozika, Legal Aid Counsel
For the Respondent (s) : Mr. K Khan, PP with
Mr. S Sengupta, Addl.PP

JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)

This is the usual appeal filed on behalf of the convict with counsel engaged by the Legal Services Authority. However, there is little room for the appellant to manoeuvre or wriggle out of the situation in view of the facts as they presented themselves before the Trial Court and the veritable admission on the part of the appellant.

2. The FIR was lodged by the 14-year-old victim's father on April 28, 2017, reporting of an incident that took place the previous afternoon. The victim's statements given in course of the investigation and her oral testimony in Court are clear and leave little room for doubt. Just as her father's FIR had indicated, the victim was returning from school between 3 pm and 4 pm on April 27, 2017, when she was accosted by the present appellant and another person who forcibly took her to the nearby jungle and raped her one after another. The two left the victim bleeding and threatened the victim not to narrate the incident to any person.

3. The victim identified the appellant in Court. The other person involved was discovered to be a juvenile and the matter pertaining to such other person was referred to the Juvenile Justice Board.

4. The victim was medically examined shortly after the complaint was lodged, and, in course of the examination, it was found that she had redness in the labia minora and her hymen was torn. Her “inner frock” was seized by the investigating officer and the medical examiner, who examined the victim, testified later in Court that it was his opinion that the victim had been violated and sexually assaulted.

5. There was no eye-witness and several of the witnesses called by the prosecution corroborated the narration of the incident by the victim. All the material against the appellant, based on the deposition of the witnesses, were summarised and put to the appellant for his response in course of the exercise conducted by the trial court under Section 313 of the Code of the Criminal Procedure, 1973. Though, in response to one of the initial questions, the appellant said that he had not committed any rape, it is clear from the appellant’s answers that followed, particularly the appellant’s response to question Nos. 5, 9 and 15, that the appellant admitted to having committed the offence along with the juvenile. The appellant’s statements at the Section 313 stage, amount to this: that neither the appellant nor the other person involved with him had any motive of committing rape on the victim or bore any grudge against the victim or her family but upon seeing the victim trudging back alone after school, they were overcome with carnal desire and committed the offence.

6. The appellant admitted to the fact that the victim was bleeding at the time that the appellant raped her and the juvenile offender committed rape thereafter. The appellant also admitted that the appellant and the juvenile offender had threatened the victim and had asked her not to disclose the incident to any person.

7. In a matter of the present kind when there is a clear picture of the incident which is brought out by the victim in the course of her statement or her deposition, particularly when the victim may have no axe to grind against the accused, a degree of sanctity has to be accorded to the victim's version. In this case even though the victim was a minor, she was 14 years old and the way she narrated the incident left little doubt as to her understanding of what was perpetrated on her. The medical examination corroborated the plight suffered by the victim and the examiner's evidence was also lucid. In addition, the appellant herein admitted to having committed the offence in the course of at least three of the answers in response to the questions put to him by the Court at the trial.

8. Considering the entirety of the matter and the fact that the appellant had unequivocally confessed to having committed the offence, there was little room for the trial court to doubt the victim's version or to pass a different sentence than has been by the judgment of conviction and the order of punishment.

9. There is no merit in the appeal and it has been established and proved beyond reasonable doubt in course of the trial that it was the appellant who committed the offence. The sentence followed the conviction and does not call for any interference.

10. Crl.A. No.13 of 2019 is dismissed.

11. The appellant will immediately be forwarded a copy of this order at no cost.

(W. Diengdoh)
Judge

(Sanjib Banerjee)
Chief Justice

Meghalaya
15.02.2022
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