

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 535 OF 2004

STATE OF U.P.

.....

APPELLANT

VERSUS

RAM PRASAD AND ORS.

.....

RESPONDENTS

O R D E R

It is true that the judgment of the High Court is rather sketchy and does not really take into account the entire evidence adduced by the parties. It is equally true that the High Court has found that something untoward had happened as the conviction of the respondent under Section 376 of the Indian Penal Code has been converted into one of Section 354 of the IPC. The implication of the above finding is that the High Court has confirmed the presence of the respondent at the time of the incident. It also appears that the respondents were satisfied with the judgment of the High Court as they have filed no appeal in this Court against that judgment. We have nevertheless gone through the judgment of the trial court as well as the

High Court and find that the evidence of rape is not clear or explicit.

Mr. Pramod Swarup, the learned senior counsel for the appellant-State has vehemently argued that there was no reason as to why the prosecutrix, a young girl raped by four young men, should involve them in a false case and weightage must to be given to her testimony over any other evidence. It is true that her evidence calls for the deepest consideration but at the same time to ignore the other prosecution evidence would be a very dangerous doctrine to project. In the present matter, we see that the doctor deposed that there was no definite opinion that the prosecutrix had been raped as she was used to sexual intercourse and that no external or internal injuries had been seen in her private parts. Moreover, the vaginal swabs and stains on the petticoat which were sent to the laboratory has borne no result as, the prosecution has not produced on record the report of the laboratory. The inference that is to be drawn is that the Chemical Examiner's Report did not support the prosecution story. There is yet another circumstance which must be found in favour of the respondents. The prosecutrix deposed that she had sustained injuries on her wrists when her glass bangles had broken during the commission

of the rape. The doctor, however, found that there was no injuries on her person. We are, therefore, of the opinion that no interference is called for in this appeal, which is, accordingly, dismissed.

.....J
[HARJIT SINGH BEDI]

.....J
[AFTAB ALAM]

NEW DELHI
AUGUST 26, 2009.

