

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Decided on: 23rd November, 2017

+ **CRL.A. 679/2017**

HARDYA DASS

..... Appellant

Represented by: Mr. Ajay Verma, Mr. Narsingh
Narain Rai and Mr. Upendra
Yogesh, Advocates.

versus

STATE

..... Respondent

Represented by: Mr. Amit Gupta, APP for State
with SI Satyawan, PS Uttam
Nagar.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

1. By this appeal, the appellant challenges his conviction for offence punishable under Sections 342/376/506 IPC vide the impugned Judgment dated 7th May, 2014 and the order on sentence dated 8th May, 2014 directing him to undergo rigorous imprisonment for ten years for offence punishable under Section 376 IPC and rigorous imprisonment for two years for offence punishable under Section 506 (II) IPC and rigorous imprisonment for a period of six months for offence punishable under Section 342 IPC.

2. Learned counsel for the appellant contends that appellant was falsely implicated at the instance of mother of the prosecutrix on the instigation of her previous husband. The recoveries are false and fabricated and cannot be relied upon.

3. FIR No. 630/2011 under Sections 342/376/506 IPC was registered on the complaint of prosecutrix, who was brought to the Police Station by her

mother and after she was medically examined in the hospital on 25th December, 2011. The prosecutrix stated that on 16th August, 2011 at about 1.30 PM the appellant committed rape on her and also threatened to kill her and her mother. Thereafter appellant continued to rape her and she became pregnant on account of the sexual act of the appellant. After investigation charge sheet was filed and the report in respect of the exhibits was sought from the FSL.

4. In the deposition before the Court the prosecutrix reiterated her statement made in the FIR and stated that she was aged 13 years and was studying in 5th class. Her real father died six years ago and appellant started residing thereafter with them. Her mother earned her livelihood by selling articles in various houses. On 16th August, 2011, she returned from her school when her mother was not at home. She went upstairs to change the school uniform when appellant entered the room and bolted it from inside. Thereafter he made her to lay on the cot by pushing her. When she started screaming, appellant pressed her mouth and committed sexual intercourse without her consent. The appellant threatened her not to disclose this to anybody or else he would kill her and her mother. Thereafter appellant continued to rape her every day for about 3-4 months. When she became pregnant she told the incident to her maternal grandmother who told the whole incident to her mother. Nothing material has been elicited in the cross-examination of the prosecutrix and the conviction of the appellant can be based on her testimony alone.

5. Further evidence for corroborating the testimony of the prosecutrix, is the statement of PW 16, Dr. A.K. Srivastava who has deposed that the DNA was isolated from the foetus of the prosecutrix and from the blood sample of

the accused and after performing the DNA profiling analysis, he has given the conclusion that the DNA profile from the blood of the appellant is matching with the DNA profile of the foetus of the prosecutrix. He proved the DNA report as Ex. PW-16/A.

6. Considering the evidence/statement of the prosecutrix, duly corroborated by the FSL report, the contention of the learned counsel for the appellant that the appellant has been falsely implicated to extort money is liable to be rejected.

7. There being no error in the impugned judgment of conviction and the order of sentence, the appeal is dismissed.

8. Trial Court record be sent back.

9. Copy of this order be sent to the Superintendent, Tihar Jail for updation of record and for communication to the appellant.

NOVEMBER 23, 2017
'yo'

(MUKTA GUPTA)
JUDGE

भारतमेव जयते