



2026:AHC:21013

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 9287 of 2022

Bechan Prasad

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s) : Avinash Chandra Srivastava, Sanjay Kumar Mishra

Counsel for Respondent(s) : G.A.

Court No. - 51

HON'BLE ANIL KUMAR-X, J.

1. As per the office report, notices sent to the respondent/informant have been returned with the endorsement that the informant is not traceable and has left the village where she was earlier residing. Hence, service of notice upon the informant is deemed sufficient.
2. Heard learned counsel for the appellants, learned counsel for the informant, and Sri Subham Tandon, learned State Law Officer.
3. The present criminal appeal under Section 14-A(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has been filed by the appellants against the impugned cognizance order dated 10.11.2022 passed by the learned Special Judge, SC/ST (Prevention of Atrocities) Act, Siddharth Nagar, as well as the impugned charge-sheet dated 30.09.2022 in Special Criminal Case No. 591 of 2022 (State vs. Bechan Prasad), arising out of Case Crime No. 132 of 2022, under Sections 376 IPC and Section 3(2)(v) of the SC/ST Act, Police Station Bansi, District Siddharth Nagar, pending before the Court of Special Judge (SC/ST Act), Siddharth Nagar.
4. The victim lodged an FIR against the present appellant on 28.05.2022 alleging that she had gone to the clinic of the appellant for treatment. It was alleged that on the pretext of administering treatment, the appellant made her consume a sedative pill, as a result of which she became unconscious. During the said unconsciousness, she was raped by the appellant. Upon regaining consciousness, she found her clothes to be unsettled. It was further

stated that she was pregnant for eight to nine months and that the pregnancy was the result of the alleged rape. She also stated that she is a married woman having two children.

5. After investigation, a charge-sheet was submitted against the appellant for the offences under Section 376 IPC and Section 3(2)(v) of the SC/ST Act.

6. Learned counsel for the appellant submitted that the victim is habitual in blackmailing persons for extorting money. In support of his submission, he drew attention to affidavits of five persons, namely Mukhlal, Ramavatar, Santram, Rujhane, and Bhagirathi. Learned Counsel submitted that above persons have alleged that victim is a woman of easy virtue. They have also disclosed her modus operandi of stopping people midway, demanding money, and threatening false implication in criminal cases.

7. It was further submitted that the victim herself filed an affidavit dated 22.04.2022 wherein she that she had exaggerated the incident in FIR due to being upset with the appellant for refusing treatment. She also stated therein that she may be prosecuted if she files any such application in future. She also stated that her statements in the affidavit were made voluntarily. Learned counsel contended that these affidavits sufficiently establish that the victim is habitual in blackmailing persons.

8. It was further submitted that victim is a married woman and, as per the affidavits relied upon, is presently living with her fourth husband. It was contended that the real reason for lodging the FIR was that the appellant refused to provide abortion pills. It was also submitted that at the relevant time the appellant was posted as a Pharmacist at Rajkiya Ayurvedic Chikitsalay, Daulatpur, Bahraich, and was not present in the village. Attention was drawn to the attendance sheet. It was further argued that the FIR was lodged after an unexplained delay of nine months and that no date or time of the alleged incident was disclosed therein.

9. Learned counsel further submitted that Criminal Misc. Writ Petition No. 7787 of 2022 (Bechan vs. State of U.P. and others) was filed before this Court, wherein a Coordinate Bench directed the State to verify the affidavits relied upon by the appellant. Coordinate Bench in its order held that:-

"We are showing indulgence in the matter because there are affidavits of some persons to show that the respondent no.3 is habitual of filing such litigation and there are some xerox copies of the statements. State to verify the same and to file reply on or before 8th July, 2022."

10. It was submitted that despite the said direction, the Investigating Officer failed to record statements of those persons and submitted the charge-sheet. Learned counsel further placed reliance on paragraphs 3, 4, and 5 of Criminal Appeal No. 7295 of 2023 (Neutral Citation No. 2023:AHC:144058), wherein anticipatory bail was granted to the appellant, and submitted that the affidavits of the aforesaid persons were duly considered by this Court while passing the said order. He submitted overwhelming evidence on record suggest that prosecution against appellant was launched with ill intent to extort money from him. Hence, the impugned order of taking cognisance upon the charge-sheet is illegal, arbitrary, and liable to be set aside.

11. Learned AGA submitted that the FIR was lodged on 28.05.2022 and the statements of the victim under Sections 161 and 164 Cr.P.C. were recorded promptly, wherein she consistently supported the prosecution case. It was contended that the charge-sheet was submitted on the basis of legally collected evidence and that the order taking cognizance does not suffer from any illegality.

12. Heard learned counsel for the parties and perused the record. During the course of arguments, this Court repeatedly requested learned counsel for the appellant to confine his submissions to the material available in the case diary, as affidavits relied upon by him were admittedly not part of the investigation record. Despite repeated attempts to restrain him from indulging in unnecessarily lengthy arguments, learned counsel insisted on advancing submissions based on extraneous material and stated that he would argue the matter at length and, if necessary, challenge the order before the Hon'ble Supreme Court.

13. Although this Court had confined the scope of hearing to the legality of the charge-sheet and the cognizance order, and specifically indicated that material extraneous to the case diary cannot be examined at this stage, learned counsel for the appellant persisted in advancing arguments dehors the settled legal position. Such conduct is clearly improper and contrary to

established norms of advocacy. The jurisdiction of this Court at this stage is limited to examining whether the charge-sheet and cognizance order suffer from legal infirmity, and not to undertake a roving enquiry based on unverified affidavits or disputed questions of fact. Nevertheless, in view of the repeated insistence of learned counsel, this Court finds itself compelled to address the submissions raised, though such exercise is ordinarily unnecessary and legally unwarranted at this stage.

14. The affidavits relied upon by learned counsel cannot be considered, as they do not form part of the case diary. Moreover, the language used therein, attacking the character and dignity of the victim, is wholly unacceptable. It is not expected from a member of the Bar to place reliance on such material. Such averments are contrary to settled law. Any attempt to portray a woman as being of "easy virtue" or to cast aspersions on her moral character is wholly irrelevant and is expressly barred under Section 53A and the proviso to Section 146 of the Indian Evidence Act, 1872. These allegations amount to character assassination. Such allegations violate the woman's right to dignity and privacy under Article 21 of the Constitution of India, and constitute an abuse of the process of law. It is well settled that a woman's past conduct or character cannot be used to discredit her or defeat her legal rights. The impugned statements therefore deserve to be expunged and ignored for all purposes.

15. The plea of alibi sought to be raised is unsupported by any evidence collected during investigation and, therefore, cannot be considered. The contradictory stands taken by the appellant further weaken the defence. Learned Counsel has submitted attendance sheet of appellant to establish that appellant was present at the place of his posting during the incident, but has argued that victim was motivated to lodge this FIR because appellant refused to deliver her abortion pills. The affidavit allegedly filed by the victim also appears, *prima facie*, to be prepared under influence and cannot be relied upon at this stage. It is unusual that a person will voluntarily make declaration in an affidavit that he should be prosecuted for filing false complaints. Statements of the victim under Sections 161 and 164 Cr.P.C. consistently support the prosecution case.

15. The contention that this Court had relied upon the affidavits in earlier proceedings is factually incorrect. Perusal of the orders passed in Criminal Misc. Writ Petition No. 7787 of 2022 and Criminal Appeal No. 7295 of

2023 shows that no reliance was placed upon the affidavits and no findings were recorded thereon. The affidavits were merely referred to for the limited purpose of verification.

16. Before parting with the matter, this Court deprecates the conduct of the learned counsel for the appellant, who has adopted an improper and impermissible practice of annexing and relying upon affidavits containing scandalous allegations questioning the character and dignity of a woman. Such pleadings are wholly unbecoming of an advocate and strike at the very foundation of ethical advocacy. Further, the attempt to browbeat the Court by openly stating that its order would be challenged before the Hon'ble Supreme Court, as well as making incorrect and misleading statements regarding earlier orders passed by this Court, reflects a serious lapse in professional conduct. This Court considers it appropriate to warn the learned counsel for the appellant to exercise due care and restraint in the manner of making submissions before the Court.

17. Coming to the facts of the case, it is evident that the statement of the victim has remained consistent from the very inception. The allegations levelled by her stand duly corroborated by her statements recorded under Sections 161 and 164 of the Code of Criminal Procedure. There is nothing on record at this stage to discredit or disbelieve her version. As regards the delay in lodging the First Information Report, it is well settled that, particularly in cases of sexual offences, such delay cannot be evaluated at the stage of taking cognisance and is a matter to be examined during trial.

18. Accordingly, appeal lacks merit and is hereby dismissed. Charge-sheet dated 30.09.2022 is upheld. Cognizance order dated 10.11.2022 is also upheld. Trial to proceed in accordance with law.

January 29, 2026
Mukesh

(Anil Kumar-X,J.)