

KALYAN LAW COLLEGE, BHILAI



1ST SHRI R.K. PANDEY MEMORIAL NATIONAL VIRTUAL MOOT COURT COMPETITION, 2021

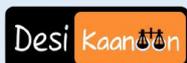
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CHAMBER OF R.K. PANDEY & SONS

IN MEDIA PARTNERSHIP WITH



1st Shri R.K. PANDEY MEMORIAL NATIONAL VIRTUAL MOOT COURT COMPETITION, 2021

MOOT PROPOSITION

● **Background of Case -**

1. The Victim ' X ' lived with her Mother, Sartia Devi and 2 younger brothers namely Rahul and Bablu in village Ghaila, District Lucknow . The father of victim had died 4 years ago and the victim along with her mother used to take care of daily expenses of her family.

As per matriculation certificate, the Date of Birth of victim is 01.01.2002 .

At some distance from house of Victim, there used to live the accused Raghav (aged about 18 years 6 Months) with his father Radhe Lal, who was principal in a Government school, his mother Reema devi and a younger sister Pooja .

The Accused and Victim were distant relatives and they were Pattidars .

2. There was a dispute between both the families about a property regarding which, a civil suit was pending in the city civil court , Lucknow.

● **Prosecution Story –**

3. According to Prosecution story, On the night of 14.08.2019 the prosecutrix had gone to the field adjacent to river Gomti to ease herself. As soon as she reached the fields, someone forcibly caught hold of her and took her inside the Sarpat and committed rape with her. As it was very dark, she could not recognize that person.

When the victim tried to raise alarm , the person threatened her with dire consequences.

4. After this incident the victim became very scared. On 24.08.2019, in a very depressed condition, she disclosed this incident to her mother. When her mother asked the victim as to why she had not disclosed this incident to her then she told her that she was threatened with dire consequences, therefore she could not muster the courage to disclose this incident.

5. On the basis of these facts, FIR was lodged by Sarita Devi and the case was registered on 28.08.2019. In the FIR , name of Raghav s/o Radhe Lal was shown as a suspect. It was mentioned that Raghav used to tease the prosecutrix on many earlier occasions and in order to pressurize her mother, he had committed rape upon victim.
6. On the same day, the victim was referred for her medical examination which took place on the same day at 5.00 p.m. in District Women Hospital, Lucknow. According to the medical examination report no injury on her body or on her private part was found and there was no bleeding or redness or tenderness and no discharge was present. Hymen was old torn and no bleeding was present and no redness or congestion, no tenderness was found and vagina admitted two fingers easily. Uterus was of normal size. Vaginal smear was taken and two slides were prepared for pathological test.
7. The Prosecutrix was referred for X-ray for determination of her age. On the basis of the aforesaid testsher radiological age was reported to be about 18 years.
8. The Investigating Officer arrested Raghav on the same day. When he was asked about the clothes he had worn on the night of incident, he said that he had left the pant and towel at place of occurrence itself.

The IO inspected the place of occurrence on the same day and prepared the site plan. He also recovered the clothes on the pointing out of Raghav. During the course of investigation on 29.08.2019 the pant and towel was sent to Forensic Science Lab for examination. As per the Forensic Science Lab report no spermatozoa was reported on the pant and towel .

Statements of Parties U/s 161 Cr.P.C.

9. The statement of the Prosecutrix under Section 161 Cr.P.C. was recorded on 2.09.2019 where she said - “Raghav used to follow me from way back to home from my school. At many occasions he had tried to forcibly hold my hands. On 08.08.2018, He said that he loved me and wanted to marry me. I disclosed this incident to my mother who ridiculed Raghav in return.

In May 2019 , Raghav came to my school and asked me to runaway with him and said that if I

did not follow his request, I would have to bear the consequences. However I did not report this incident to my mother.

10. On 14.08.2019, I left home at 8 Pm and headed towards the fields adjacent to bank of river Gomti to attend nature's call.

11. As soon as I reached the fields someone held me from back and shut my mouth and dragged me to *Sarpat* where he tore my cloths and committed rape on me. When I tried to shout, he threatened that he would kill me. Also he shut my mouth with his hands so I couldn't raise an alarm. But during course of act, I started weeping, it was then when he got scared and ran away leaving his pants and towel. As it was very dark, so I could not see who that person was. But I suspect that he was Raghav.

She further stated – “I was raped by Raghav 3 months back also. I was very scared thus I couldn't tell anyone then. But how could I keep silence when the act was repeated. ”

12. Sarita Devi ,in her statement stated that - “ Behaviour of my daughter had changed from past few days. I kept asking her about the reason but she never told me. On 24.08.2019 when I strictly asked her about her changed behavior. It was then only when she told me that she was raped by someone whom she believes to be Raghav. She also told me that the person threatened her that if she will disclose this incident with anyone, she would be killed.”

She further stated – “Raghav used to keep an evil eye on my daughter. I had warned him on many occasions. Also Raghav and his father were pressurizing me to withdraw the civil suit. In order to compel me to withdraw the suit, Raghav had raped my daughter.”

13. Mr. Jung Bahadur, who was easing himself in nearby field stated - “When I was in my field at around 8:20 Pm. I saw in the light of torch that Raghav was running towards his home in a naked condition with only his Underwear on. ”

14. Gauri , Classmate of victim said in her statement that – “ Someday in month of May this year, Raghav came to school during our lunch time. He seemed to be very angry. He threatened the Victim that she did not marry him, she would have to face the consequences and left. ”

15. Statement of Raghav was also recorded where he denied the allegations of Rape. He said - “ I loved X and I wanted to marry her. I knew that she also secretly loved me but due to existing family dispute, she was reluctant to confess it to me. I did nothing wrong on 14.08.2019. Whatever happened , happened with her consent. On the evening of 13.08.2019, she asked me to meet her in the cattle grazing field near the river the next day at 8 pm. When I met her, she voluntarily went with me inside the Sarpat , but as soon as I took off my clothes, she started shouting and crying for help. Startled and shocked with her sudden behavior, I ran away leaving my clothes . I have not committed rape on her. I have been falsely implicated due to the property dispute. ”
16. Statement of victim u/s 164 Cr.P.C. was recorded on 05.09.2019 where she repeated the whole incident. However, she didn't say anything about her allegation that Raghav had raped her at one more instance. When magistrate pointed this out, she said that she had given statement of rape on earlier occasion by mistake and Raghav had not raped her 3 months back but only teased her.
17. After completing the investigation, charge-sheet was filed on 30.09.2019 u/s 376 and sec. 506 IPC.
18. On 1.10.2019, Raghav filed an application for Bail u/s 439 which was rejected by the Sessions Court.
19. Charges were framed u/s 376 , 506 IPC . Raghav denied all the charges and claimed to be tried.
20. On 28.10.2019 Raghav approached Allahabad High Court u/s 482 Cr.P.C. for quashing of charge- sheet . However the court observed that “ At this stage, it can't be said that no prima-facie offence is made out against the petitioner. Thus the impugned charge-sheet does not call for any interference. “
21. In order to prove its case, the prosecution examined PW-1, the complainant, Sarita Devi, PW-2 the victim, PW-3 Dr. Parwati Singh, who had medically examined the victim. P.W-4 Jung Bahadur, PW-5 S.I. Rajeev Chaudhary who had investigated the case, PW-6 Gauri, classmate of Prosecutrix.

22. All the Prosecution witness repeated whatever they had stated in their statements u/s 161 Cr.P.C. The accused was also examined u/s 313 Cr.P.C. where he denied all the allegations and repeated whatever he had stated in his statement u/s 161 Cr.P.C.

23. After appreciating the evidences on record, the trial court, on 02.03.2020 convicted Raghav and following sentences were imposed on him:

(1) Under Section 376 (1) IPC - 10 Years' rigorous imprisonment with fine of Rs.10,000/- .

(2) Under Section 506 (2) IPC-2 years' rigorous imprisonment and also with fine of Rs.2000/-All the sentences were directed to run concurrently.

Trial court observed that – “Law is settled on the point that in a case of rape if the evidence of the victim of offence of rape is found to be wholly reliable then the same can be made foundation for recording the conviction against the accused and in such case no corroboration in material particulars shall be required. ”

24. On 18.03.2020, Raghav filed an appeal along with an application for suspension of sentence before Allahabad High Court, Lucknow Bench.

25. On 30.07.2020 , The High Court suspended his sentence and released him on bail during pendency of his appeal.

26. The division bench of High Court On 5.02.2021 dismissed the appeal observing that “ We don't find any illegality or perversity in judgment of Ld. Trial court. It is a settled law that if the finding of trial court is based upon legal evidences and their fair interpretation, then such finding should not be disturbed ”. On the same day, the appellant was taken into custody .

27. Aggrieved by the judgment of High Court, Raghav has filed an appeal against conviction before Supreme Court of India.

28. The matter is listed on 30.07.2021 for admission as well as hearing.

29. The counsels are required to prepare the memorandum for both sides.

IMPORTANT DATES (Tentative)

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| 1. Release of Moot Problem & Registration - | 12 June 2021 |
| 2. Last Date of Registration- | 15 July 2021 |
| 3. Last date of Memorial Submission - | 25 July 2021 |
| 4. Last date of Memorial submission with penalty - | 26 July 2021 |
| 5. Preliminary Rounds - | 30 July 2021 |
| 6. Quarter Finals and Semi Finals - | 31 July 2021 |
| 7. Final Round - | 01 August 2021 |

IMPORTANT LINKS

- Rules & Regulations - <https://bit.ly/3gyVMgi>
Registration Form - <https://bit.ly/2RTT3FL>

INSTAGRAM AND WEBSITE LINKS -

- Dream Law - <https://bit.ly/3yL7CvP>
Deadly Law - <https://bit.ly/3fWmTS4>
Desi Kanoon - <https://bit.ly/3c16YAC>
Rostrum Legal - www.rostrumlegal.com
Memo Pundits - www.memopundits.com

CONTACT DETAILS -

Website - www.dlmootcourt.wordpress.com

- Conveners -

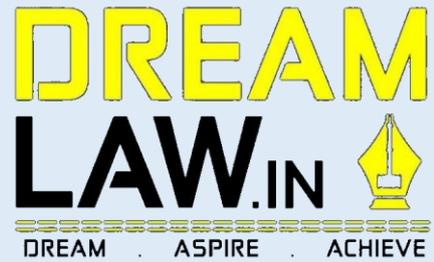
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