State Of Andhra Pradesh vs Bodem Sundara Rao on 22 September, 1995

Equivalent citations: 1996 AIR 530, 1995 SCC (6) 230, AIR 1996 SUPREME COURT 530, 1995 (6) SCC 230, 1995 AIR SCW 4435, 1996 (1) BLJR 245, 1995 CRIAPPR(SC) 364, 1995 CALCRILR 332, 1995 SCC(CRI) 1097, (1995) 7 JT 90 (SC), (1996) 1 SCCRIR 311, 1995 CRILR(SC&MP) 571, (1995) 3 RECCRIR 299, 1995 CRILR(SC MAH GUJ) 571, (1996) 1 CRICJ 554, (1995) 3 ALLCRILR 417, (1996) 1 BLJ 1, (1995) 4 CRIMES 153, (1996) 1 CHANDCRIC 25, (1995) 3 RECCRIR 601, (1996) 10 OCR 1, (1995) 32 ALLCRIC 740, (1996) 1 SC CR R 311, (1995) 3 SCJ 511, (1996) 1 CURCRIR 121, (1996) MAD LJ(CRI) 68

Author: K.S. Paripoornan

Bench: K.S. Paripoornan

PETITIONER:
STATE OF ANDHRA PRADESH

Vs.

RESPONDENT:
BODEM SUNDARA RAO

DATE OF JUDGMENT22/09/1995

BENCH:
ANAND, A.S. (J)
BENCH:
ANAND, A.S. (J)
PARIPOORNAN, K.S.(J)

CITATION:
1996 AIR 530 1995 SCC (6) 230
JT 1995 (7) 90 1995 SCALE (5)554

ACT:

HEADNOTE:

JUDGMENT:

O R D E R Leave granted.

On 16.2.1985 the prosecutrix, PW2, aged between 13-14 years was sexually assaulted by the respondent in broadday light. The prosecutrix was carrying lunch for her father, who was grazing cattle in the fields when the respondent all of a sudden caught hold of her and committed rape on hear despite her protestations. The prosecutrix, who was bleeding profusely from her vagina on account of the rape committed by the respondent, reported the incident to her father, PW-3 and to her mother PW-4. The First Information Report was thereafter lodged with the police. The prosecutrix was medically examined and the doctor opined that she had been subjected to rape. The respondent was sent up for trial under Section 376 Indian Penal Code. The Trial Court after appraising the evidence on the record found the respondent guilty of an offence under Section 376 Indian Penal Code vide judgment dated 7th February, 1986 and imposed the sentence of ten years rigorous imprisonment on him. The respondent filed an appeal in the High Court against his conviction and sentence. While maintaining the conviction of the respondent, the High Court, however, reduced the sentence to a period of four years. While reducing the sentence the High Court merely observed :

> " However, sentence of 10 years, which is on a higher side, is reduced to 4 years R.I. with this modification the appeal is dismissed."

The State has come in appeal by special leave complaining about the inadequacy of the sentence imposed upon the respondent by the High Court. It is submitted that the High Court was not at all justified in reducing the sentence and that in any event should not have imposed any sentence less than the prescribed minimum under Section 376(1) IPC (after amendment). Despite service the respondent chose not to appear before us. We, therefore, directed the appointment of an amicus curiae to represent him. We have heard learned counsel for the parties.

From the evidence of the prosecutrix and her parents and the medical evidence, it stands established that the respondent committed rape on her and therefore his conviction is well recorded. Prosecution evidence is cogent, reliable and trustworthy. We, therefore, find that the conviction of the respondent as recorded by the Trial Court and upheld by the High Court is well founded.

After is amendment, Section 376(1) provides for a minimum sentence of seven years which may extend to life or for a term which may extend to 10 years besides fine for the offence of rape. The proviso to Sub-Section (1) lays that the Court may for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than seven years.

Keeping in view the nature of the offence and the helpless condition in which the prosecutrix a young girl of 13/14 years was placed, the High Court was clearly in error in reducing the sentence imposed upon the respondent and that too without assigning any reasons, much less special and adequate reasons. The High Court appears to have overlooked the mandate of the Legislature as reflected in Section 376(1) IPC.

The learned amicus curiae appearing for the respondent, however, submitted that since the High Court had reduced the sentence to four years vide its judgment dated 23rd September, 1987, the respondent would have completed the sentence of imprisonment about five years ago and he may not, at this stage, be sent back to jail. Learned counsel further submitted that before the Trial Court the respondent had submitted that he was a young man and his parents were dependent upon him while seeking leniency in the matter of sentence. The Trial Court, as already noticed, having regard to the circumstances of the case and the nature of the offence, held that the respondent deserved a deterrent sentence and, accordingly, sentenced him to undergo rigorous imprisonment for a period of 10 years. Of course, the respondent would have undergone the sentence imposed by the High Court in 1990 itself but that is hardly a justification for us to ignore the gravity of the offence or the mandate of the law. There are no adequate and special reasons available on the record justifying reduction of sentence. To show mercy in the case of such a henious crime would be traversity of justice and the plea for leniency is wholly misplaced.

In recent years, we have noticed that crime against women are on the rise. These crimes are affront to the human dignity of the society. Imposition of grossly inadequate sentence and particularly against the mandate of the Legislature not only is an injustice to the victim of the crime in particular and the society as a whole in general but also at times encourages a criminal. The Courts have an obligation while awarding punishment to impose appropriate punishment so as to respond to the society's crime for justice against such criminals. Public abhorrence of the crime needs a reflection through the court's verdict in the measure of punishment. The Courts must not only keep in view the rights of the criminal but also the rights of the victim of crime and the society at large while considering imposition of the appropriate punishment. The henious crime of committing rape on a helpless 13/14 years old girl shakes our judicial conscience. The offence was inhumane. There are no extenuating of mitigating circumstances available on the record which may justify imposition of sentence less than the minimum prescribed by the Legislature under Section 376(1) of the Act.

We, thus, consider it our plain duty to enhance the sentence in this case. Keeping in view the facts and circumstances of this case and the submissions made by the learned amicus curiae, while maintaining the conviction of the respondent for the offence under Section 376 Indian Penal Code, we enhance the sentence of 4 years' RI to 7 years' RI, which is the minimum prescribed sentence under the Section, for we find no adequate or special reasons to impose a sentence less than the prescribed minimum. Necessary warrants shall be issued to take the respondent into custody to undergo the remaining period of sentence.