

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 600 of 2001  
Date of decision: 30/9/2008

State of Himachal Pradesh ... Appellant.

Vs.

Ram Mehar. .... Respondents.

Coram

**The Hon’ble Mr.Justice Deepak Gupta, J.**

*Whether approved for reporting?<sup>1</sup> No.*

For the appellant: Mr. Rajesh Mandhotra, Deputy Advocate General.  
For the respondent: Mr. Jagan Nath, Advocate vice Mr. Anand Sharma, Advocate.

**Deepak Gupta, J.(Oral)**

Nand Lal (PW-3) lodged a complaint Ext.PW-3/A with the Superintendent of Police, Reckong Peo, District Kinnaur. According to him, the prosecutrix (PW-4), name withheld, had informed him that on 26<sup>th</sup> March, 1998 at 11.00 a.m that one lady Susheela Devi wife of Raj Kumar had allured her and taken her to the GREF-Camp. When she reached the quarter of the Dhobi (washerman) then accused Ram Mehar caught her from behind and gagged her mouth. She raised an alarm but neither Susheela Devi nor any other person came to help her. Thereafter Ram Mehar took her inside a room and tried to outrage her modesty. When the prosecutrix tried to stop him the accused beat her. The washerman was standing outside the room. She remained inside the room for about 20 minutes and she could not recall what offence had been committed upon her. According to the father, his daughter was not in a position to tell the complete facts and he apprehended that she might have been raped.

<sup>1</sup> ***Whether the reporters of the local papers may be allowed to see the Judgment? yes.***

This complaint Ext.PW-3/A was made to the police on 28<sup>th</sup> March, 1998, on which the Superintendent of Police immediately directed the Investigating Officer to record the F.I.R. F.I.R was recorded and statement of the prosecutrix was recorded under Section 161 Cr.P.C. In this statement, the prosecutrix stated that the accused Ram Mehar had told her that the Dhobi was calling her. She thought that she would take medicines from the Dhobi and therefore went to the shop of the Dhobi. The Dhobi was not there and the person who was there (whose name was later found to be Ram Mehar, Cook) molested her. In this version, the prosecutrix also says that she kicked the accused and when she gave him a kick with the knee and then managed to escape.

There are inherent contradictions between the version given in the complaint Ext.PW-3/A and the statement of the prosecutrix under Section 161 Cr.P.C. The prosecutrix while appearing in the Court gave another version. According to her, she was working in the fields with her mother and Susheela Devi told her that she had to apply mud on the walls of her hut and therefore called her under this pretext. She further states that she left Susheela Devi's house and on the way to home, the accused caught her from behind and took her inside the Dhobi shop. One man was pressing clothes there, who first tried to molest her. When she resisted, the accused picked her up and took her inside a dark room and then beat her up. The version of the father in the Court is different. According to him, his daughter told him that the accused had bitten the breast of the prosecutrix. This is not stated by the prosecutrix at all. According to her, the accused had given her some slaps.

As per the version of the father both in Court as well as before the police, he was aware of the incident on 26<sup>th</sup> March, 1998 itself.

Thereafter, it is mentioned that they went to the Commanding Officer of GREF, who advised them to lodge the complaint with the police. As per the version of the daughter they had gone to meet the Commanding Officer on the same day itself. The father in his examination-in-chief also gave a similar version but in cross-examination he states that he had gone the next day to the Commanding Officer. Even if it be believed that they had gone to the Commanding Officer on the next day, there is no explanation why he did not lodge the complaint on the same day i.e 27<sup>th</sup> March, 1998.

There are many contradictions in the statements of the witnesses. Both the father and the daughter have denied substantial portions of the statements made to the police. The father cannot, however, resile from Ext.PW-3/A, which is a typed complaint under his signature. The prosecutrix, her father and the prosecution are not coming out with the truth. From the initial version as given it appears that the washerman was known to the family. This is what the prosecutrix as well as the father have stated. In Court they denied this fact. The nature of the allegations made against the accused has also changed at every step. Therefore, no reliance can be placed on the statement of the prosecutrix in the peculiar facts of the case.

The trial Court in view of the various inconsistencies rightly acquitted the accused. For the reasons stated above, I do not find any error in the order of the trial Court. The appeal is dismissed and the bail bonds of the accused are discharged.

30<sup>th</sup> September, 2008.  
TM

**(Deepak Gupta), J.**

