



2026:DHC:2028



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

Date of decision: 9th March, 2026

IN THE MATTER OF:

+ CRL.A. 126/2008

HARUN & ANRS.

.....Appellants

Through: Ms. Astha, Adv. (DHCLSC) with
Ms. Megha Singh, Adv.

versus

STATE

.....Respondent

Through: Mr. Satinder Singh Bawa, APP for
the State with SI Manju Redhu, PS
Timarpur.
Ms. Sunita Arora, Adv. (DHCLSC)
for prosecutrix.

CORAM:

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT (ORAL)

VIMAL KUMAR YADAV, J.

1. Too much water has flown from the river Yamuna and its adjoining flood plains from where the instant case has originated twenty years back in the year 2006, in which the present Appellants were held guilty under Section 376 and convicted thereof.
2. Assailing the judgment and the order on sentence, the instant appeal was preferred by the Appellants, which is disposed of hereby through this judgment.
3. Protruding stomach of the prosecutrix unravel the facts and on being asked by her parents, the prosecutrix unfolded the ordeal she had undergone at the hands of two of her neighbours Harun and Inaam, the



Appellants herein. The wife of the former was entrusted with the care and custody of the prosecutrix by her father, Momin.

4. The father of the prosecutrix who happens to be a professional driver involved in driving Dumper and was invariably working long hours in the day and night shifts. He used to come home only for a very brief period. His first wife mother of the prosecutrix had died and with his second wife he was having a matrimonial dispute so she too was not living with him except the prosecutrix. The other children from the first wife were too young therefore, they were left back home in Uttar Pradesh.

5. Against the backdrop of these facts and circumstances, the responsibility of the prosecutrix was given to the wife of Harun.

6. Harun as well as Appellant Inaam both were sharecropper who used to cultivate vegetables on the Yamuna flood plains and that required their presence in the fields where the wife of the Harun also used to go as other members of the family.

7. Prosecutrix used to be taken by the wife of the Appellant Harun with her for working in the fields, but it is alleged that Harun manipulated the situation and often used to send his wife back. In her absence, he committed rape upon the prosecutrix in the field at the Yamuna flood plains.

8. As per the allegations Appellant Inaam who happens to be the nephew of the Appellant Harun also misused the situation and committed rape on at least 4-5 occasions in the house of the prosecutrix itself when she was alone in the night. The prosecutrix had nobody to share all these facts and she, seemingly, could not muster the courage to tell all these to her father or anybody else and suffered silently. It was, however, her pregnancy which was noticed by her step-mother that is how the whole



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facts came to light of her being raped by Harun and Inaam.

9. This led to the registration of FIR No. 411/2006 by police station Timarpur under Section 376 / 506 / 34 IPC since the Appellants not only used to rape her but also used to threaten her that she would be harmed along with her siblings.

10. After the requisite investigations, FIR culminated into charge-sheet and finally the Appellants were held guilty, convicted and sentenced under Section 376/506/34 IPC. They were sentenced to undergo Rigorous Imprisonment (RI) for 10 years and pay a fine of Rs. 10,000/- each for the offence punishable under Section 376 IPC, in default of payment of fine, they shall undergo Simple Imprisonment (SI) for 01 year both the convict Harun and Inaam were sentenced to undergo RI for 02 years and to pay a fine of Rs. 5,000/- each for the offence punishable under Section 506 IPC, in default of payment of fine, they shall undergo SI for 06 months.

11. It is contended on behalf of the Appellant that case is full of dissonance, such as prosecutrix is not sure as to where she was assaulted. Two places have been mentioned one is the fields where the vegetables were cultivated and the place where Harun had raped her on multiple occasions and whereas Inaam raped her at the house of the prosecutrix. However, it is asserted that apart from the fact that none of the farmers from the nearby fields ever noticed the incident but the Prosecutrix was unable to pin-point the exact place of assault too.

12. She has given three versions about the threats extended to her. On the one hand in her statement under Section 161 Cr.P.C., she says that she was threatened with a knife, whereas in her statement under section 164 Cr.P.C., she had stated that she was threatened that she and her father would be killed by firearm and in her deposition before the Court, she has



stated that Harun threatened her to kill her siblings, and whereas, Inaam had extended threats to her by showing a knife.

13. As regards the rape committed by Inaam, it is submitted that the prosecutrix was inside her house having bolted it from inside, in such circumstances, how the Appellant Inaam could have the access to commit the rape unless permitted by the victim. These things indicate that the Appellants have been falsely implicated at the instance of the father of the prosecutrix inasmuch there was a dispute with regard to the land on which the prosecutrix and her family were living.

14. It is further submitted that the incident took place about 5-6 months prior to the August 2006 resulting into the pregnancy of the prosecutrix but then the DNA sample did not match, for the sample was putrefied. Nevertheless in the absence of any connecting evidence or any corroborative evidence except the statement of the prosecutrix, which is full of conflicting circumstances and narrative which make it susceptible to doubt and suspicion the Appellants cannot be held responsible. In any case there is a considerable delay in the lodging of FIR which remains unexplained.

15. It is submitted that there is no reason as to why the victim did not disclose the multiple assaults to any of her family members or friends, despite the fact that she has a large family. With these contentions it is submitted that the Trial Court has erred in holding the Appellants guilty and as such the Appeal should be allowed.

16. Learned APP on the other hand while defending the judgment submitted that the evidence of the prosecutrix cannot be ignored and she is consistent in her statements made to the police, in the statement under Section 164 Cr.P.C and during the Trial before the Court. A slip here and



there would not matter in such cases. It is further submitted that there was nobody with whom she could have shared her ordeal at the hands of the Appellants as her biological mother was no more, and step-mother remains a step-mother after all, who was having a matrimonial discord with the father of the prosecutrix. Her siblings and other family members were at their native in Uttar Pradesh.

17. In such circumstances, the prosecutrix suffered silently and could not dare to share it with anybody. If the pregnancy would not have been there, this case would not have been there at all.

18. Having considered the submissions put forth by the rival sides, it is evident that the Appellants have taken advantage of the vulnerability of the prosecutrix. One can imagine her situation where her biological mother is no more, father coming to the home for a very brief period and she has been in a way entrusted to her neighbour. She was not only assaulted, but was threatened as well. She had no one in whom she could have confided, therefore, the vulnerability of a young girl of about 16 years or so can be easily visualized, one who is without a proper guardianship not much educated and not aware of her rights and the ways of this cruel world.

19. The contention raised on behalf of the counsel for the Appellant that Inaam used to gain his entry into the room of the victim by mimicking the voice of her uncle, which may be an isolated incident that the prosecutrix opened the door believing that her uncle wants to come. However, coming at about 11:00 PM in the night was unusual for anyone. But then there was no occasion for her to fall prey again to the same trick. What could be the reason and why it was permitted to be repeated, can be anybody's guess.

20. As text is to be read in context, testimony is to be read in the backdrop of the circumstances in which the victim was placed. This



possibility cannot be ruled out altogether that she was so frightened that she could not resist the attempts, efforts and acts of the Appellants. Therefore, the contention of the learned counsel for the Appellant that the door was opened by the victim herself indicates something else, coupled with the silence of the prosecutrix, cannot be over emphasized or read against the prosecutrix.

21. The contention that the FSL result did not support the case of the prosecution is not potent enough to negate the testimony of the victim. The FSL result or any scientific evidence is there to corroborate and not to corrode the facts. No findings can be recorded solely relying upon that very evidence, that too when the lapse seems to be on the part of the investigation. The sampling was done by the doctors, who allowed the sample to be putrefied is to be blamed not the victim.

22. As has come out during the arguments that the prosecutrix delivered a child who was there with her. In such circumstances, the investigating agency could have collected the requisite sample to have the DNA examination afresh. However, the lapse of the investigating agency cannot be permitted to allow any injustice to be done.

23. There appears no reason to disbelieve the prosecutrix and as such the finding recorded by the learned Trial Court do not require any interference as a result the Appeal against conviction stands dismissed.

24. The incident is of the year 2006 and the Appellants have effectively served the sentence of more than 09 years out of the 10 years awarded to them, therefore, they can be considered for the sentence of the period already undergone by them, as sending them back to jail would not serve any purpose, as has also been contended by the counsel for the Appellant.

25. The Nominal Roll on record substantiate this fact that the Appellants



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have served substantial part of the sentence and given the fact that Harun was about 33 years of age and Inaam about 23 years of age when the offence took place and now they are 53 and 43 years of age respectively having travelled too far in the life, shouldering responsibilities of their families, therefore, sending them to custody for a few months would not serve any purpose.

26. As such when they have faced criminal trial / proceedings for about 20 years, having underwent more than 90% of their sentence coupled with the fact that no other involvement in any other case, has been reported qua them. As such, when statute i.e. the proviso to Section 376 IPC, as it stood prior to the amendment, says that even minimum sentence can be reduced under special circumstances, therefore, the sentence awarded to the Appellants is reduced to the period of imprisonment already undergone by them.

27. Appeal stands disposed of accordingly. Copy of the judgment be transmitted to the concerned Trial Court and the Jail Authorities for information.

VIMAL KUMAR YADAV, J.

MARCH 9, 2026/hk/tng