

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1932/2019

ARULAPPELLANT(S)

VS.

THE STATE REP. BY THE DEPUTY
SUPERINTENDENT OF POLICE ...RESPONDENT(S)

WITH

CRIMINAL APPEAL NO...../2022 (@ SLP(CRL.) NO.7256/2022)
CRIMINAL APPEAL NO.222/2020

O R D E R

1. Leave granted in SLP(CRL.) NO.7256/2022.
2. These appeals by special leave challenge the judgment and order dated 12.07.2017 passed by the High Court of Judicature at Madras dismissing Criminal Appeal No.494 of 2010 preferred by the present appellants.
3. The facts leading to the filing of said appeal as well as the case of the prosecution stand captured in paragraphs 1 to 3 of the judgment under appeal and for facility, said paragraphs are extracted herein :

"The case of the prosecution as per the charge is that on 10.09.2006, the informant-Anjalai, her husband and mother-in-law, were proceeding to their village after watching the first show Cinema, since the bi-cycle got punctured, they were chasing the bi-cycle by walking. At about 10.00 P.M., when they reached near Rettnai Amman Kolathumedu road, all the three accused have obstructed the husband and mother-in-law of the informant and assaulted them by hands and caused injuries on them. On seeing the same, the

informant attempted to escape from there by holding her tender baby. Thereafter, all the three accused chased the informant, snatched the tender baby and thrown out on the floor. Thereafter, they hold the hands and legs of the informant and lift her to a mango thoppu, where they laid her on the ground. Thereafter, the accused 2 and 3 where holding the hands and legs of the informant, the first accused tore her blouse and had sexual intercourse with her. Likewise alternatively, the other accused one by one had sexual intercourse with her. When P.W.4 husband of P.W.3 and father of P.W.2 searched them, on the way, he found P.W.1 to P.W.3 in unconscious state. P.W.4 had taken the victim-P.W.1 and the injured P.W.2 and P.W.3 to the Government Medical College Hospital, Villupuram. The informant, her husband and mother-in-law belongs to Irular Community (Scheduled Tribe), whereas the first accused belongs to Thuluva Vellalar Community and 2nd and 3rd accused belongs to Vanniyar Community the Revenue Divisional Officer, Ginji has also made enquiry and filed a Report regarding the Community of the victim and accused. Thereby, the accused 1 to 3 have committed the offences punishable under Sections 341, 323, 376 of IPC r/w 3(1) (XII) (V) of SC/ST Act 1989.

2. On the basis of the complaint given by the victim before the Periyathachoor Police Station, the Inspector of Police, Periyathachoor Police Station, has registered a case against the accused for the offences punishable under Sections 341, 323, 376 of IPC r/w 3(1) (XII) (V) of SC/ST Act 1989 in Crime No.192/2006. Since the accused have committed the offence punishable under Section 3(1)(XII) (V) of SC/ST Act 1989, the Inspector of Police, Periyathachoor Police Station forwarded the First Information Report to the Superintendent of Police, Villupuram Division. The case was also enquired by the Revenue Divisional Officer, Ginji with regard to the community of the victim, her husband and mother-in-law and he has also issued community certificate to that effect and filed a Report.

3. The Superintendent of Police, Villupuram Division took up the investigation and after completion of investigation, has laid a charge sheet before the Judicial Magistrate No.II, Tindivanam. The Judicial Magistrate No.II, Tindivanam, has taken the case on file in

P.R.C.No.18/2007 and committed the same to the Principal District and Sessions Court, Villupuram. The Principal District and Sessions Court Villupuram, took the case on file in S.C.No.7/2008 and framed charges against the accused for the offence punishable under Sections 341, 323, 376 of IPC r/w 3(II)(XII) (V) of SC/ST Act 1989."

4. The prosecution examined ten witnesses in support of its case which included PW-1 the victim, PW-2 her husband and PW-3 mother-in-law. All three witnesses stood firm in cross-examination and quite consistently stated that on the fateful day PW-1 the victim was subjected to rape by the present appellants.

5. Considering the material evidence on record, the trial court accepted the case of prosecution and found the appellants guilty of offences punishable under sections 341, 323, 376 of IPC as well as offence punishable under section 3(2)(5) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The trial court awarded varying sentences for the aforesaid offences, the maximum punishment being ten years imprisonment for the offence punishable under section 376 of IPC.

6. The accused being aggrieved, preferred aforesaid criminal appeal before the High Court which did not meet with any success. The judgment passed by the High Court is presently under challenge in these three separate criminal appeals.

7. We have heard learned counsel for the parties and perused the record.

8. Firstly, it is urged only one of the accused i.e. Murugan was named in the FIR while with respect to the second person, the description was stated to be "identifiable" while with respect to the third person, the only description given was "concerned person was tall".

However, it must be noted that the consistent version coming from the prosecution witnesses while they were examined in court was that the accused persons were known to them. These assertions were not in any way countered or challenged.

9. The second submission advanced is based on the medical report of the victim. It must be noted that the report itself was after four days of the incident. Considering the status of the lady, the aspects such as the medical examination did not find any external injuries or the fact that there was no recent intercourse, would not nullify the effect of the testimony of three witnesses.

10. The sum and substance of the matter is that the version given by the victim is supported, on every material aspect, by the oral testimony of other two accompanying persons namely mother-in-law and the husband.

11. In the circumstances, we find no merit in these appeals which are accordingly dismissed.

12. It appears that Accused No.2 namely Arul is presently on bail. He shall surrender within two weeks from today before the concerned police station failing which the bail bonds furnished at the time of his release on bail shall

stand forfeited and the concerned police shall arrest him immediately to serve out the remaining sentence.

The other accused namely A-1 and A-3 who are in custody shall undergo the sentence imposed upon them.

.....CJI
[UDAY UMESH LALIT]

.....J
[BELA M. TRIVEDI]

NEW DELHI;
OCTOBER 19, 2022.

ITEM NO.29

COURT NO.1

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 1932/2019

ARUL

Appellant(s)

VERSUS

THE STATE REP. BY THE
DEPUTY SUPERINTENDENT OF POLICE

Respondent(s)

(With IA No. 171357/2019 - EXEMPTION FROM FILING O.T.)

WITH SLP(Cr1.) No.7256/2022 (II-C)
(With IA No. 106128/2022 - EXEMPTION FROM FILING C/C OF THE
IMPUGNED JUDGMENT)

Cr1.A. No. 222/2020 (II-C)

Date : 19-10-2022 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Appellant(s)	Mr. Krishna Pal Singh, AOR Mr. Seemab Qayyum, Adv. Ms. Anvita Aprajita, Adv. Mr. Madhavendra Singh, Adv. Mr. Mohan Singh Bais, Adv. Mr. Devesh P. Singh, Adv.
	Mr. P. George Giri, AOR Ms. Jasmin Kurian Giri, Adv. Mr. Ginesh P., Adv. Mr. Shaji Sebastian, Adv.
For Respondent(s)	Dr. Joseph Aristotle S., AOR Ms. Nupur Sharma, Adv. Mr. Shobhit Dwivedi, Adv. Mr. Sanjeev Kr. Mahara, Adv. Ms. Vaidehi Rastogi, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted in SLP(CRL.) NO.7256/2022.

These appeals are dismissed in terms of the signed order.

It appears that Accused No.2 namely Arul is presently on bail. He shall surrender within two weeks from today before the concerned police station failing which the bail bonds furnished at the time of his release on bail shall stand forfeited and the concerned police shall arrest him immediately to serve out the remaining sentence.

The other accused namely A-1 and A-3 who are in custody shall undergo the sentence imposed upon them.

Pending interlocutory application(s), if any, stands disposed of.

(SANJAY KUMAR-II)
ASTT. REGISTRAR-cum-PS

(POONAM VAID)
COURT MASTER (NSH)
(Signed Order is placed on the file)