

BA.LLB

MOOT PROBLEM

.....

Marle is a village near Pune, in the state of Maharashtra, inhabited by localities of Maharashtra. Family of Mr. Bhagat , comprising of three members Mr. Shyam Bhagat , his wife Ruhi and a daughter named Rohini, whose age was about 20 years, recently moved to the village by taking an agricultural land somewhere in February 2014 .

On 2nd March 2014, in the evening Rohini complained to her parents that she was teased by two boys, when she was returning home, as she had gone to buy grocery items from the shop. Though the parents of Rohini did not pursue the matter, the same boys again teased Rohini, two days later. This time, Mr. Shyam along with Rohini set out to identify those boys. Mr. Shyam identified the boys as Pankaj and Manik, and warned them to stay away with their daughter. Though for few days all went well but again the boys started to harass Rohini. On 15th March 2014, there was again confrontation between Mr. Shyam on one side, and Vijay and Manik on the other.

This time the villagers advised Mr. Shyam that not to take enmity with Pankaj and his friend as Pankaj was the son of the leading local politician. However Mr. Shyam did not heed to their advice and on 16th March 2014 proceeded to make a police complaint. The police did not register an FIR but called both Pankaj and Manik to police station and warned them, that they should refrain from indulging in such type of bad behaviour.

On evening of 17th March 2014, when Rohini was managing the waters to her fields, the water went to the neighbouring fields causing some damage. The said field belonged to Mr. Vaasu, who actually wanted to buy the field, which was ultimately bought by Mr. Shyam. The deal with Vaasu was not materialised, as the cost could not be negotiated. If Rohini's story is to be believed, then Mr. Vaasu went and hit Rohini, which was denied by Vaasu. There was an intense quarrel between Vaasu and Shyam regarding the same issue.

On 3rd September 2014, Rohini went missing. Bhagat family tried to find her, and kept no stone unturned to fetch her. However she was not found. Immediately Mr. Bhagat wanted to file an FIR, but the police said that they need at least 24 hours to take a police complaint. So on 4th September 2014, the missing complaint was lodged.

Mr. Bhagat stated that he suspected on Pankaj and Manik were responsible, as they were teasing Rohini.

On same evening Vaasu went to police station and informed police that the dispute between Rohini and Pankaj and Manik was settled. He also stated that Mr. Bhagat was not a nice man. Vaasu further contended that Rohini was also not worth believing. However Mr. Bhagat was bent on arresting Pankaj and Manik. As Pankaj was a son of politician, police went to his house and said that they want to take him in police station for interrogation along with Manik. Father of Pankaj stated that both Manik and Pankaj are in Gujarat to meet some relatives of Pankaj, and would be there in the police station as soon as they return.

Two days later both Pankaj and Manik returned and presented before the police. During the interrogation both of them denied that they had done anything to Rohini, and in fact they had no knowledge relating to disappearance of Rohini. Both of them did admit that they troubled Rohini, but had stopped troubling Rohini since they received warning from the police. They also showed the train tickets dated 3rd September 2014, to Baroda, Gujarat, booked by name of Pankaj and Manik. As there was no prima facie case against the two, the police set them free on condition that they shall not leave the village without informing the police, and shall appear in police station whenever required by the police.

On 3rd October 2014 Nasik police traced the dead body of a female, which was in decomposed state in some remote area, nearby Nasik. When the police did investigation, and the clothes of the dead body were circulated, the Marle Police escorted the Bhagat family to Nasik to identify the body.

On 5th October 2014 Bhagat family reached Nasik and identified the body as of Rohini. When asked by police that whether any relatives or anyone who knows Rohini are residing in the Nasik, they answered in negative. In the mean time, the post-mortem report of Rohini arrived, which stated that the time of death was about 25 to 30 days, and the cause of death was strangulation.

On 6th December 2014, police got information that when Rohini was in Pune for education at that time she had a classmate Raaj from Nasik. Police also found out that she was in touch with Raaj through social media.

In same month the case took another turn, when police during the investigation found that Manik and Pankaj were in a remote Hotel named 'Viraam' in Kurla, Bombay, with a girl on

5th September 2014. One of the cleaner of the hotel made a statement that the girl was not very happy being with them. When the photo of deceased was shown to the hotel staff, then the staff member identified the girl as same one who was with Pankaj and Manik.

On the basis of this report on 10th December 2014, Pankaj and Manik were arrested. They were booked under Section 302, Section 376 and section 363 of the IPC. When police took the statement of Pankaj and Manik it was as under

“We were behind the deceased, and hacked her social media account. We got her intimate photographs with Raaj. We then arranged the tickets of the bus to Baroda for ourselves, but neither intended, nor boarded that bus. On 3rd September 2014, we abducted Rohini and proceeded to Bombay where we put a condition that we will release her if she agrees to our condition of having sex with her, also showed her the photographs, we had got. Then we had consensual sex with her. On 4th September 2014, we left her on Kurla, Bombay bus stand. As our purpose was served, we destroyed those photographs by burning. Then we have no idea where she went and what happened to her. We then proceeded to Baroda by a private vehicle”.

The trial commenced in the appropriate court of Sessions.

During the trial Mr. Raaj was called who stated that he knew Rohini and they were in touch with her by way of social media. However he denied meeting her since the college was over.

The parents stated that did not know that, their daughter knew anyone named Raaj, and that they are meeting Raaj for the first time.

The Cleaner of the hotel who earlier had given the statement was also called as a witness was firm on his statement which he had made earlier, that the girl was not so happy, but there was no force by the men who were accompanying her.

The Investigating Officer (IO) was also questioned and submitted to the court that he hired a cyber expert and the expert failed to recover any such photographs as mentioned by the accused.

The IO also failed to trace that whether the accused really travelled to Nashik or not.

The trial court convicted both the accused for Kidnapping and Rape and sentenced them to life imprisonment. However the court acquitted them of the charge of murder.

Aggrieved prosecution then appealed to High Court. High Court admitted the appeal, and the matter is now listed for the final hearing.