

JudicateMe



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**PAWAN KUMAR V STATE
OF HIMACHAL
PRADESH¹**

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FACTS:

The Facts of the case are as follows:

The above mentioned case is of Eye Teasing and Abetment to Suicide. A teenage girl named Shalu who used to live with her parents in village fell in love with the Accused. The Appellant Accused used to threaten the girl that he would kidnap her. Sukh Dev the father of the deceased had made complaint to the Gram Pradhan for the same On 18.07.2008 at 9:00pm the Appellant threatened him that he would forcibly take her and on the next day she feels unassured and realizes that she could not live anymore because of what she has faced and been up to from past sometimes so pours kerosene on her body and light's herself up her body was taken to the nearby Private Hospital where the doctor referred them to take her to the hospital in Chandigarh but because of the money constraint they couldn't and in the evening the Pradhan of the Village visited their house and gave a written document in which it was stated that the Appellant Accused was responsible for her condition where after they informed the police and all statements of recording happened and her medical examination was held. On

24.7.2008, the dying declaration was recorded by the Head Constable in the presence of Medical Officer and after that the victim expired then the post mortem in which they told her parents that she has 80% on her body and FIR was registered. This case was taken first to the Lower Court in which the Judge had set the Accused free because he did not rely on the Statements which were given by the Witnesses and Family Member and even did not consider the Dying Declaration by the victim as no Medical Clearances was given by the doctor of her being fit to give the declaration though the declaration had been recorded by the Police Authorities in the presence of the Medical Officer. Then this case was referred to the High Court in which the High Court reversed the order passed by the lower court and gave the decision stating that the Accused Appellant was guilty for what he did by saying that any kind of actions which are done by any person which leads to threatens or harming of any person results in abetment which can lead the person to do anything which is wholly dependent on how it has affected the person and the High Court gave importance to all the statements which were presented and précised more on the Dying Declaration and said that Dying Declaration with or without the Medical Certificate is admissible. The Appellate Court too supported the decision of High Court and said that Abetment of Suicide was present the Appellate Court too said that any kind of threat or harassment leads to Abetment as no one knows how the other person would be affected by it moreover the power which was used by the High Court was

¹ (2017) 7 SCC 780

corrected and the Appellate Court too supported it.

ISSUES:

Following issues were raised in the present case

- 1- Whether the accused was just guilty of Eve Teasing or of more crimes
- 2- Was there Abetment done by the Appellant Accused which lead to the deceased in committing of Suicide (Section 306 and 307 of the Indian Penal Code 1860)
- 3- Whether the Reversal of the Acquittal by the High Court in this present Case proper or not, whether all the requirements necessary to do the same were present or not?
- 4- Can the Dying Declaration be admissible without Medical Clearance by the Doctor but when done in the presence of Medial Officer?

JUDGEMENT:

The following Judgment was given:

Reading the judgment which was given by Hon'ble Dipak Mishra can be regarded as a faultless one as it is in the favor of the Women's who are residing in India. We've been living in a patriarchal society for a very long time because of which whatever crime is committed by the person or whatever decision is taken up the men are considered to be unquestionable by the women irrespective whether it is correct or not when seen from the side of women. Cases of Sexual Harassment and Assault are majorly faced by the Females of our country and it is pretty sad to say that they never report these kinds of crime to the police station as many parents teach or the child herself has the view that nobody would take them seriously and in return would blame them for what they have faced.

The Present Case is of Eve Teasing which is faced by a girl named Shalu who used to live with her parents in village and fell in love with a boy who told her he would elope with her. The story gets a different phase when the Accused is released by not being guilty and he reaches the house of the deceased and threatens her and her family that he would kidnap her. As she could not bear all these things she pours kerosene on herself and burns herself but she did survive it and died in between the investigation. It's really sad to see that just because a man was going against her will even though he stopped continuously it was the girl who took her life and not the girl and there are many number of cases like these which goes unreported as to save their families reputation in return to which the Males of the societies consider it as their right to do anything with any women irrespective whether her consent was present or not. Discrimination on the basis of sex should be stopped everyone should be treated equally. We cannot deny anyone their rights just because they are women or someone from the lower strata of the society every person. We don't even think or care to know how the other person feels when they are ill-treated what affect do they face like mental physical misery etc. everyone has the right to live with dignity as stated in our constitution and to be treated equally. These types of judgments help the women to speak up against the evil treatment which they have faced and it's her decision to dismiss man from her life if she does not love her or feel safe with her. Consequently the Court has held that "male bullheadedness", "selfishness" thus called as "manliness" as a high risk to the rights and nobility of ladies.

Adding some more to this it can be said that The Appellate Court has taken a firm decision which would benefit all of the women who are residing in India. The way that how the deceased had 80% expends, or the Medico-Legal Support examining the limit of the lapse

declaration, didn't hamper the method of movement of value. The Court has developed the way that value can't be evaded by exploiting the break provisions of law. This shows the legitimate course of action of our country has gone to a way

wherein each and every part of the case is penniless down totally and the decision which was given by the Lower Court Judge was not incorrect it was on what the judge felt correct and thus the decision was given for the same.