

**CASE COMMENT: MUKESH & ANR V. STATE (NCT OF DELHI) &
ORS**

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BENCH- Ashok Bhushan, R. Banumathi, Dipak Misra

SYNOPSIS

One of India's landmark judgments that has resulted in many reforms in the country's rape laws because it includes extremely grotesque and barbaric acts. Jyoti Singh, a 23-year-old physiotherapy intern, boarded a bus from Munirka to Dwarka in Delhi with a friend. A ravenous beast consumed several organs as well as a small town Indian girl's hopes and ambitions on the night of December 16, 2012, infamous molesters and attackers committed one of the most horrific crimes in our country's history.

BACKGROUND

In the cold winter night of 16 December 2012, around 21:00, a 23-year-old girl along with her boyfriend boarded a private bus in New Delhi. The bus had already been boarded by six men including the driver and a juvenile. A few minutes later, the lights of the bus were switched off; the girl was taken by four of them to the rear side of the bus, while her boyfriend was beaten up badly on the front side of the bus.

In a sadistic manner, “the girl’s clothes were torn over and she was slapped repeatedly over her face. They possibly could not have imagined that she would be a prey to the savage lust of a gang of six, face brutal assault and become a playful thing that could be tossed around at their wild whim and her private parts would be ruptured to give vent to their pervert sexual appetite, unthinkable and sadistic pleasure. What the victims had not conceived of, it all happened, as the chronology of events would unroll. The attitude, perception, the bestial proclivity, inconceivable self-obsession and individual centralism of the six made the young lady to suffer immense trauma and, in the ultimate eventuate, the life-spark that moves the bodily frame got extinguished in spite of availing of all the possible treatment that the

medical world could provide. The death took place at a hospital in Singapore where she had been taken to with the hope that her life could be saved.¹

FACTS OF THE CASE

1. Nirbhaya is the pseudonym used for the rape victim of the infamous 16 December 2012 Delhi gang rape incident. The victims, a 23-year-old woman, Jyoti Singh, and her male friend, were coming back to home on the night of 16 December 2012 after watching the film Life of Pi in Saket, South Delhi.
2. At around 9:30 p.m., they boarded the bus in Munirka bound for Dwarka (IST). The bus had just six passengers, plus the driver. Minor, one of the guys had summoned passengers and told them that the bus was on its way to their destination.
3. Her friend grew suspicious when the bus deviated from its usual route and shut its doors. When he protested, the other six men on board, including the driver, ridiculed the pair, asking what they were doing alone at such a late hour.
4. When the friend attempted to defend Nirbhaya, he was beaten up by the attackers. During the debate, a fight broke out between her friend and a group of men. With an iron bar, he was beaten, gagged, and knocked unconscious. The men then pulled Jyoti to the back of the truck, where they hit her with the rod and raped her as the bus driver drove away.
5. Nirbhaya was not just sexually violated; her body was mutilated beyond human imagination. A medical report later said that she suffered serious injuries to her abdomen, intestines and genitals due to the assault, and doctors said that the damage indicated that a blunt object (suspected to be the iron rod) may have been used for penetration. That rod was later described by police as being a rusted, L-shaped implement of the type used as a wheel jack handle.
6. As indicated earlier, the prosecutrix and PW-1 were noticed by PW-72, Raj Kumar, who heard the voice of 'bachao, bachao' from the left side of the road near a milestone opposite to Hotel Delhi 37. PW-72 saw PW-1 and the prosecutrix sitting naked having blood all around.

¹ <https://indiankanoon.org/doc/68696327/>

About 11:00 p.m., PW-73 took the victims to Safdarjung Hospital, New Delhi. She later died of multiple organ failure, internal bleeding and cardiac arrest on the 29th of December.²

7. As aptly observed by **Justice Dipak Misra**: It sounds like a story from a different world where humanity has been treated with irreverence.
8. There were three judges in this case's bench who decided that the accused did not deserve sympathy at all.

CHARGES FRAMED AGAINST THE ACCUSED

After the case was committed to the Court of Session, all the accused were charged for the following offences:

1. u/s 120-B IPC;
2. u/s. 365 / 366 / 307 / 376 (2) (g) IPC / 377 IPC read with Section 120-B IPC;
3. u/s. 396 IPC read with Section 120-B IPC and /or;
4. u/s. 302 IPC read with Section 120-B IPC;
5. u/s. 395 IPC read with Section 397 IPC read with 120-B IPC;
6. u/s. 201 IPC read with Section 120-B IPC and;
7. u/s. 412 IPC.

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During the course of trial, accused Ram Singh committed suicide and the proceedings against him stood abated vide order dated 12.10.2013.³

² <https://indiankanoon.org/doc/68696327/>

³ <https://indiankanoon.org/doc/68696327/>

JUDGMENT BY THE TRIAL COURT

Learned Sessions Judge, vide judgment dated 10.09.2013, convicted all the accused persons, namely, Akshay Kumar Singh @ Thakur, Vinay Sharma, Mukesh and Pawan Gupta @ Kaalu under Section 120B IPC for the offence of criminal conspiracy; under Section 365/366 IPC read with Section 120B IPC for abducting the victims with an intention to force the prosecutrix to illicit intercourse; under Section 307 IPC read with Section 120B IPC for attempting to kill PW-1, the informant; under Section 376(2)(g) IPC for committing gang rape with the prosecutrix in pursuance of their conspiracy; under Section 377 IPC read with Section 120B IPC for committing unnatural offence with the prosecutrix; under Section 302 IPC read with Section 120B IPC for committing murder of the helpless prosecutrix; under Section 395 IPC for conjointly committing dacoity in pursuance of the aforesaid conspiracy; under Section 397 IPC read with Section 120B IPC for the use of iron rods and for attempting to kill PW-1 at the time of committing robbery; under Section 201 IPC read with Section 120B IPC for destroying of evidence and under Section 412 IPC for the offence of being individually found in possession of the stolen property which they all knew was a stolen booty of dacoity committed by them.

JUDGMENT BY THE SUPREME COURT

- In a simple mandate, the court stated that the diabolic act had shaken the common consciousness of the nation and that the court should regard it as the rarest of rare cases in which death sentences could be awarded. According to the Supreme Court, DNA recognition, fingerprints, witness testimony, and odontology confirmed the identity of the accused on the bus and their role in the case.
- The bench said, the way they played with the identity, body, dignity & privacy of a women is unforgivable and their evil deeds has no mercy to be given.
- The Supreme Court delivered justice to the victim's family and all women in the country by upholding the death penalty for the four convicts in the Nirbhaya gangrape and murder case, describing it as the rarest of rare, most violent and barbaric assault on Jyoti Singh, a 23-year-old paramedic student. The convicts treated the victim as if she were a doll and abused her/his friend at an unforgivable extent.

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- A three-judge bench unanimously affirmed the Delhi High Court's ruling, which complied with the trial court's decision in the matter. Mukesh, Pawan, Vinay Sharma, and Akshay Kumar Singh were hanged to death for their violence against a countrywoman. The bench sentenced them to death because their crime matched the rarest-of-rare requirements. Following the incident, since he was a minor at the time, the fifth accused was not charged and was returned to a correctional institution for three years.
- The last accused Ram Singh of this case did a suicide in Tihar jail while his trial which proves his guilty mind.

AFTER MATH OF THE CASE

1. Nirbhaya case showed a great impact on the law and society as well. Government showed a great sense of responsibility after this case towards the women of our country and her privacy. After the huge amount of protest nationwide and worldwide, it became a turning point for a woman of this country. In the time India's government made several laws and legislation against this heinous crime.
2. The Criminal Amendment Act, 2013 is also popularly referred to as the **Anti-rape Act**. Under this change, new offences such as stalking, acid attacks, and voyeurism were added into the definition of rape.
3. Even the threat of rape is now a crime and the person will be punished for the same.
4. The minimum sentence was changed from seven years to ten years considering the increase in the number of rape cases.
5. In cases that led to the death of the victim or the victim being in a vegetative state, the minimum sentence was increased to 20 years.
6. The character of the victim was totally irrelevant to rape cases and it doesn't make any difference in granting punishment for the crime.

7. Since one of the accused in this case was a juvenile, another flaw in the system was identified after this case. So, the age for being tried as an adult for violent crimes like rape was changed from 18 to 16 years, that to the Juvenile Justice Act, 2015. There was also the inclusion of registering complaints and medical examination. The report categorically mentioned, Any officer, who fails to register a case of rape reported to him, or attempts to abort its investigation, commits an offence which shall be punishable as prescribed. The committee gave extensive recommendations regarding avoiding marital rape as well as rapes committed via commission of void marriages.

CONCLUSION

Rape laws have gone a long way, but there are still some problems that need to be discussed, such as gender neutrality (under the IPC, a man cannot be the perpetrator of rape) and the definition of marital rape. The laws are dynamic; they change with time; however, the main problem with rape laws is that the legislation is only changed when anyone among us suffers; therefore, it is essential that the rape laws function with all of their dynamism, and that the required reforms are made. Following that, the three convicts, except Akshay, requested a summary of the verdict, but it was denied. The Supreme Court rejected Akshay's appeal petition on December 18, 2019, and he was eventually hanged on March 20, 2020.

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