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Gujarat High Court Asks State To...

## Gujarat High Court Asks State To Identify Cases Where Rape Convictions Are Based On Weak Evidence; To Hear Such Appeals On Priority

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The Gujarat High Court has instructed the State government to establish a committee to identify cases, particularly rape cases, where convicts have been wrongly sentenced due to improper evaluation of evidence or doubtful evidence, resulting in prolonged incarceration.

*"Such cases as the present one which are pending before the High Court need to be identified so that the conviction can be set aside at the earliest even if the sentence of the convicts is suspended. We request the State Government to do the needful in this regard by forming a Committee,"* the division bench of **Justices AS Supehia and MR Mengdey** ordered.

*"Though, we are not suggesting that the State may admit that the conviction is not proper, however, the State may suggest that such appeals be heard on priority basis,"* the bench added.

The court gave the above direction while allowing a criminal appeal filed by one Govindbhai Parmar, convicted for rape and robbery.

The case of the prosecution was that the prosecutrix was raped by four accused by forcibly taking her in the open field for six times, after they tied her husband on a cot. The accused also looted a mobile phone and a battery.

Subsequently, the four appellants were convicted by the Additional Sessions Judge, Amreli in a Special Atrocity Case for the offences punishable under Sections 323, 392, 376(2)(g) and 114 of the Indian Penal Code, 1860 (IPC) and under Section 3(1)(11) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (Atrocities Act). Challenging the same, the accuseds moved the High Court.

After scaling the evidence and the observations of the Trial Court, the court opined that the Trial Court had failed to appreciate the evidence which was established on record, and in fact this was a case, where the prosecution has been ineffective to prove the complicity of the appellants in the offence.

The court observed that the medical evidence also did not point to any injuries to her private parts.

*“At this stage, we may reiterate that the medical evidence, does not in any manner indicate the commission of aggravated sexual assault. The medical evidence does not in any manner suggest that the prosecutrix is raped by four accused by six times. Such a gravity of forceful sexual intercourse will leave exacerbating injuries, and could have definitely heavily traumatized the victim. The demeanour of the victim does not indicate that she had undergone such a high degree of sexual assault and ordeal,”* the court emphasized.

*“The trial Court has misdirected itself in appreciating the evidence in its true perspective. On the bedrock of the aforesaid analysis of the evidence, we do not agree with the findings recorded by the Trial Court in convicting the accused for the offence for which they are charged,”* the court said while quashing and setting aside the impugned judgement and order of conviction and acquitting the appellants-convicts.

The court noted that despite there being very weak evidence, the appellant had already spent more than 13 years in jail. The court also took into account the fact that another convict Virabhai Parmar had also undergone 12 years and 9 months and 13 days of sentence.

*“Before we part, we would like to highlight those cases, such as present one in which the convicts are convicted on the basis of inappropriate appreciation of evidence or the conviction is premised on such evidence which does not inspire any confidence or creates doubt, and the convicts have to undergo incarceration for a long period. In the present case, the convict has undergone 13 year and 01 month and 16 days of sentence,”* the Court underscored.

**Case Title: Govindbhai Velshibhai @ Virjibhai Parmar Versus State Of Gujarat**

**R/Criminal Appeal No. 599 Of 2013 With R/Criminal Appeal No. 487 Of 2013**

## **Appearance:**

**Mr Fb Brahmhatt(1016) For The Appellant(S) No. 1 (Cr.A No.599/2013)**

**Mr Hardik Raval For The Appellant(S) No. 1 (Cr.A No.487/2013)**

**Ms Krina Calla, App For The Opponent(S)/Respondent(S) No. 1**

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