

Chandraprakash Kewalchand Jain Summary

CORROBORATION - Evidence of Prosecutrix against the accused who was a police officer charged for the offence of rape -- There is no necessity of corroboration to the evidence of prosecutrix--A prosecutrix of a sex offence cannot be put on par with an accomplice ~ Evidence Act nowhere save that her evidence cannot be accepted unless it is corroborated in material particulars and is a competent witness under Section 118 of the Evidence Act and her evidence must receive the same weight as is attached to an injured in case of physical violence, however, nature of the evidence required to lend assurance to the testimony of the Prosecutrix must necessarily depend on the facts and circumstances of each case.

Having regard to the increase in number of sex violence in the recent past particularly in cases of molestation and rape in custody, to remove the notion, if it persists, that the testimony of a woman who is a victim of sex violence must ordinarily be corroborated in material particulars except in rarest of rare cases. To insist on corroboration is to equate a woman who is a victim of lust of another with an accomplice to the crime and thereby insult to womanhood. It would be adding insult to inquiry to tell woman that her story of woe will not be believed unless it is corroborated in material particulars. Standard of decency and morality in public life in India is not the same as in western and European countries and it is rather unfortunate that respect of womanhood in India is on the decline. The standard of proof to be expected by the court in such cases must take into account the fact that such crimes are generally committed on the sly and very rarely direct evidence of a person other than the prosecutrix is available. Therefore, the courts must also realise that ordinarily a woman, more so a young girl, will not stake her reputation by levelling a false charge concerning her chastity.

EVIDENCE - Sections 113,114, Illus. (b) and 118 -- Penal Code of India, 1860, Section 376 -- Offence of Rape committed by a Police Officer -- Conviction can be relief upon on the basis of evidence of prosecutrix without any corroboration -- To insist on corroboration except in the rarest of rare cases, is to equate a woman who is a victim of the lust of another with an accomplice to a crime and thereby Insult womanhood -- It would be adding insult to injury to tell a woman that her story of woe will not be believed unless corroborated in material particulars as in the case of an accomplice to a crime.

Ours is a conserving society where it concerns sexual behaviour. Ours is not a permissible society as in some of the western and european countries and standard of decency and morality in public life is not the same as in those countries. An Indian woman is now required to suffer indignities in different forms, from lewd remarks to eve leasing, from molestation to rape. The standard of proof should be expected by the court in such cases must take into account the fact that such crimes are generally committed on the sly and very rarely direct evidence of a person other than the prosecutrix is available. The prosecutrix is undoubtedly a competent witness under Section 118 of Evidence Act and must receive the same weight as is

attached to an injured in case of physical violence. What is necessary is that court must be alive to and conscious of the fact that it is dealing with the evidence of a person interested in the outcome of the charge levelled by her. If the court keeps this in mind and feels satisfied that it can act on the evidence of the prosecutrix, there is no rule of law or practice incorporated in the Evidence Act similar to illustration (b) to Section 114 which requires it to look for corroboration. When such crime is committed by a personal authority e.g. a police officer, the approach of the court should not be the same as in other case involving a private citizen. If a police officer misuses his authority and power while dealing with the young helpless girl, her conduct and behaviour must be judged in the back drop of the situation in which she was placed. The court must not be oblivious of the emotional turmoil and the psychological injury that a prosecutrix suffers on being molested or raped. It must be realised that a woman who is subjected to sex violence would always be slow and hesitant about disclosing her plight and the court must evaluate the evidence in this background.