

# Case Comment

S.P.S. Rathore

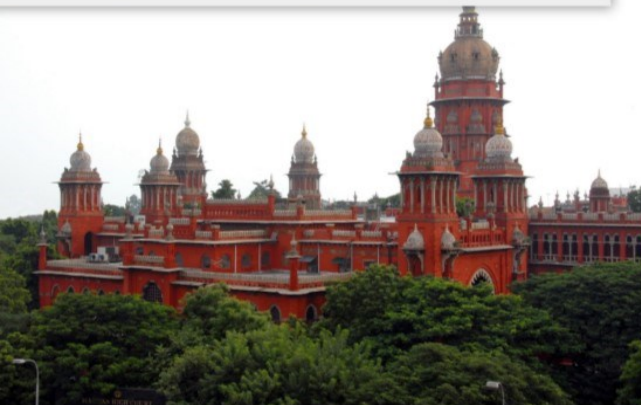
v.

Central Bureau of  
Investigation

By:

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*Rashtriya Raksha  
University*



# S.P.S. RATHORE V. CENTRAL BUREAU OF INVESTIGATION

2016 SCC Online SC 985

Vipul Jaiswal\*

## Overview

This particular case where the main incident or the crime took place in 1990, where a minor girl of 14, named Ruchika Girhotra was sexually assaulted and her modesty was outraged, following which the family of the victim was also harassed by police as the accused was serving as an Inspector General of police. This resulted in the death of the victim when she committed suicide after 2 years of the incident as there was no sight of justice to be served.

It was only after almost 20 years, the High Court eventually sentenced him to 'six' months of imprisonment with a fine of mere 1000rs. on 22<sup>nd</sup> of December 2010<sup>1</sup>. This was strongly opposed by the CBI and as a result a request for extension of the

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<sup>1</sup>SPS Rathore Vs CBI & Anr [2010] Criminal Appeal No 2126 Of [2010]

sentence was sought from 6 months to up to 2 years.

The Supreme Court of India upheld the judgment of the Chandigarh District Court and that of Special Court of the CBI and declared IG Rathore a convict, however, sentenced him to an imprisonment of just 6 Months on the grounds of health condition and age factor<sup>2</sup>.

## Facts of the Case:

- SPS Rathore, who was on deputation with Bhakhra Beas Management Board(BBMB) and had opened a Haryana Lawn Tennis Association, visited the home of Ruchika (who used to receive training there) on 11<sup>th</sup> of August, 1990 while she was on the tennis court of HLTA, and met Ruchika's father S.C. Girhotra, where he requested him to not send his daughter abroad as he will be arranging for special training for her, and requested the father to let Ruchika meet him the next day for the same.
- Ruchika, after receiving such information from her father, met Rathore the very next day in his office (in his home garrage) on 12<sup>th</sup> of August, i.e. Sunday, where she was accompanied by her friend Aradhana Prakash. Aradhana was sent immediately to look out for the Tennis

<sup>2</sup>Ibid



Coach Mr. Thomas and to bring him into the office with her.

- As she came back, without the coach, as he refused to come immediately because of some other work at hand, she i.e. Aradhana saw that Rathore had grabbed her hands and hips from both of his hands and had pushed his body onto her body. Seeing Aradhana, he rebuked and fell on his chair, while Aradhana ran out.
- Ruchika and Aradhana keeping in mind the powerful position that Mr. Rathore holds, decided to not report of the incident to their parents/families and went to practice and play tennis at a different time i.e. at around 4:30 in the evening. At about, 6:30pm, Paltoo(the ball boy) arrived and said that the accused-defendant had asked for Ruchika in his office, which she didn't comply with, after which they decided to reveal the incident to their parents.
- Parents then documented a notice against SPS Rathore and sent copies of the same to higher specialists, after which Home Minister delegated Mr. RR Singh to examine the report of the case, based on which a case was recorded on 3<sup>rd</sup> of September, 1990.
- Ruchika on 28<sup>th</sup> of December, 1993 ended her life after consuming poison and as a result left this world on 29<sup>th</sup> of December, 1993.

- On 21<sup>st</sup> of August of 1998, the High Court requested the director of Police to handover the examination to CBI, where it shall be led by an official not below the rank of DIG. This was explored & examined thoroughly, and the accused was found to be blameworthy with 6 months of imprisonment and 1000 Rupees of fine.

- Further on 12<sup>th</sup> of January, 2010 the prosecution and accused filed an appeal in the Chandigarh High Court for revision of the sentence, where the claim of the accused was denied and declined meanwhile the request of prosecution was recognized and the sentence was improved to 1.5 years of imprisonment, while fine remained unchanged.

- The accused filed a revision appeal in front of the Hon'ble Supreme Court where too, he was declared as a convict under Section-354 of the Indian Penal Code, known as IPC, but reduced his term of imprisonment of 18 months to approximately 6 months. The apex court further taking it as an exceptional case considering his age to be a factor, believed that he had served his sentence and set him free.

#### Issues:

- Admissibility of the previous statements under Section-157 of the Indian Evidence Act?

- Whether the act committed by the accused falls under the definition of Section-354 of the Indian Penal Code?
- Validity & importance of the handwriting expert's opinion as an evidence under Section-45(c) of the Indian Evidence Act?
- To analyse the possibility of the presence of an ulterior motive by authorities while investigating the case.
- Why was the case of Abetment of Suicide not made and as to why charges under Section-306 of the Indian Penal Code not framed?

#### **Arguments:**

##### **A) On behalf of the Appellant:**

- It was argued on behalf of the appellant that the office of HLTA, in the garage of the appellant's residence, at the time of the incident in question was crowded with a number of people including construction workers and it would have been impossible for the appellant to even attempt at doing any such action because it would have been easily noticed by someone around the office. It was also contended that the allegations made by the complainants were false and that there were ulterior motives of higher-level officers behind accusing the appellant of those allegations.
- It was further contended that the appellant-accused did not visit the house of

SC Girhotra(Father), nor did he ask for an audience with Ruchika in the HLTA office.

- It was argued on behalf of the appellant that the memorandum submitted to the Home Secretary had been drafted after going through long and thorough consideration and deliberation along with some high-level officers of the state and the names of the children in the memorandum said to be accompanying Ms. Ruchika at the time of the incident were not mentioned. The name of Ms. Aradhana was later on added as 'Sathi Khiladi' which was entered for the purpose of using the eye witness of choice by the complainants.
- It was also argued that the memorandum could not be relied upon as the signature of Ruchika was alleged to be fake and that the memorandum only mentioned misbehavior on part of the accused which did not amount to the offense under Section 354 of the IPC.
- It was further argued that the police station of Sector 6, Panchkula was only 300 yards from the tennis court and even close to the house of SC Girhotra yet, no complaint was filed by Ms. Ruchika or Ms. Aradhana or any of the parents of both the children. This resulted in manipulations in the stories of the complainants.
- It was also contended by the learned counsel of SPS Rathore that the appellant-accused was the Director of BBMB and so,

did not fall under the administrative control of the Government of Haryana, thus Shri R.R. Singh had no jurisdiction over his case.

- It was also argued on behalf of the appellant that there was rivalry between the two tennis associations- the one headed by the appellant i.e., HLTA, and the later by the IAS Lobby and headed by Shri B.S. Ojha as its president and this rivalry was the reason that the IAS lobby had colluded with Shri Anand Prakash, father of Aradhana against the appellant-accused. It was contended that for this reason that Shri R.R. Singh had been instructed by Shri B.S. Ojha and that they had organized the drafting of the memorandum so submitted to the Home Secretary.

- It was also argued that the key witnesses in the case which are, the coach KK Thomas and the ball picker Paltoo had not been questioned by the prosecution who were allegedly present at the time of the incident on 12.08.1990.

- Finally, it was contended on behalf of the appellant that the case presented by the prosecution was false and that the appellant deserved to be acquitted of all the charges.

#### B) Arguments on behalf of the CBI:

- The learned counsel of the CBI argued that the occurrence of the incident was proved by the testimony of Ms. Aradhana which remained unaltered and consistent

till the end and hence the contention on behalf of the accused in relation to the evidence was It was also testified by Shri SC Girhotra that the appellant had visited their house on 11.08.1990 and asked for a meeting with Ms. Ruchika the next day and the fact that Ms. Aradhana stated that both Ruchika and her went to the appellant accused's office corroborated the statement given by SC Girhotra.

- The learned counsel of the CBI also argued that with respect to the contention on behalf of the appellant with regard to the signature on the memorandum, the evidence of the handwriting expert could not be considered as conclusive proof, and since the best individual to prove the genuineness of the signature, Ms. Ruchika herself, could not be present as she was deceased, the next best evidence would be the witnesses who were present at the time of the signing, so Ms. Aradhana, Ms. Madhu Prakash was direct evidence.

- The learned counsel, with respect to the contention on behalf of the appellant in regard to the manipulation involved while drafting the memorandum, stated that the contents of the memorandum simply give a sequence of the occurrence of events and had there been any manipulation or involvement by the police officials present, the memorandum would have included evidence and proofs like an FIR, rather, the



memorandum only showed people's resentment against the alleged act. It was also pointed out by the learned counsel that the appellant was a high-ranking police officer, which was the reason behind the complainants first approaching the Home Secretary rather than filing a complaint in the police station. Ms. Aradhana's name was not included in order to avoid her being harassed<sup>2</sup>.

- The council on behalf of the CBI also mentioned that since the State Government had ordered Shri R.R. Singh to enquire with respect to the allegations against SPS Rathore, he was legally competent to investigate.

- With respect to the contention on behalf of the appellant regarding the rivalry between HLTA and HTA and the credibility of Shri Anand Prakash and Shri SC Girhotra, the learned counsel argued that this had no effect on the case in discussion and that the prosecution has made a case for conviction of the appellant-accused under Section 354 of the Indian Penal Code, 1860.

#### **Judgment/Ratio Decidendi:**

- The court under the Chief Magistrate found the applicant charged with IPC U/S 354 guilty and sentenced him to 6 months imprisonment and a fine of 1,000 rupees.

- After the prosecutor filed an appeal to increase the penalty for IPC U/S 354 crimes, the additional session judge increased it to 1.5 years in prison with the same fine.

- The Supreme Court upheld the former DGP Haryana S.Rathore's<sup>3</sup> conviction in Ruchika's molestation case but reduced his 18-month prison sentence by approximately 6 months.

- He was detained, which was an exceptional case because of the age factor taking into consideration his advanced age, and for better justice, the Supreme Court reduced the applicant's sentence to the time he has already lived.

#### **Conclusion & Analysis:**

This case very clearly shows the inadequacy of the Indian judiciary system and can be referred to as a true example of the same, as it stands failed the Indian Constitution to the status which it holds which is of the *Grundnorm*, along with the penal laws of the state.

In this case the Supreme Court upheld the conviction of the defendant applicant, the statement by the lawyer representing the

<sup>3</sup>

<https://www.lawyersclubindia.com/judiciary/sps-rathore-vs-cbi-anr-criminal-appeal-no-2126-of-2010-the-accused-was-convicted-guilty-of-molestation-of-a-girl-who-later-committed-suicide-but-his-sentence-was-reduced-5254.asp>

applicant regarding R. Singh's jurisdiction, the authenticity of Ms. Ruchika's signature in the memorandum, and the addition of Ms. Anuradha's signature. The competition between HLTA and HTA and the participation and manipulation of the police in drafting the memorandum was discussed by the higher court at the time of sentencing.

After fighting for justice for nearly 20 years and about 400 hours, the defendant was sentenced to six months imprisonment by the Supreme Justice of the Peace, even though the trial judge extended the sentence by one year, and the defendant was released on bail for six months. He was released immediately after a month. Ms. Ruchika committed suicide after becoming a victim of social persecution.

The applicant could have accepted the fact that the defendant was eventually convicted of the crimes stipulated in under 354 of the IPC. This is by no means giving them a reason to fight the corruption system for many years. Being manipulated and abused by high-ranking officials led to the death of a girl who was bullied, seeing her family and friends being bullied enough to commit suicide. But does old age give freedom to criminals who commit heinous murders, abuse of power, and offenders? This case literally failed to deliver justice to a young

woman of the country who could have served her nation.

Moreover, private organisations should be given the opportunity to conduct their own Research and Development in this field. This will give a two-fold advantage to the Space Sector, as firstly, the ease with which the private sector can tap resources and technology will enhance and speed up innovation, and secondly, the profit making goal of the private sector will also pave the way for low cost yet highly effective innovations. Although this has been the case with the space missions carried out by the Indian Space Research Organisation, however that was done for want of financial resources and not with a profit-making strategy.

It is a long and tedious journey for India to reach the level of developed countries when it comes to 'Space Laws', requiring a lot of political will and a passion for Science. However, the seed of these have been sown and the winds of change have started blowing for India.