

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,)	
)	Court of Appeal
Plaintiff and Respondent,)	No. C062694
)	
v.)	Superior Court
)	No. 062444
AJAY KUMAR DEV,)	
)	
Defendant and Appellant.)	

INTRODUCTION

Ajay Dev and his, wife Peggy, adopted Sapna Deo, Ajay's distant niece from Nepal, when she was 16 years old. She lied about her date of birth to be adopted because, in the United States, a minor must be under the age of 16 to be legally adopted. To comply with this requirement, she altered school records in Nepal to create a date of birth which would make her nine months younger. This false date of birth, indicating she was 15 at the time of the adoption, was used on all of her immigration and adoption paper work. Without the Dev adoption, Sapna would not be eligible for American citizenship.

The purpose of the adoption was to bring Sapna to the United States so she could support her biological family in Nepal by getting an education and pursuing a career. The Devs, as host parents, promised Sapna's Nepali family they would raise her with traditional Nepali values which included protecting her purity until she married. However, as an 18 year old college student living at home, Sapna wanted to date and have sex. Knowing this

was forbidden, Sapna engaged in sexual activity behind the Devs' backs and, when asked about it, vehemently denied it to the Devs and her Papa in Nepal. She knew exposure of her sexual activities would, in the eyes of the Nepali community, bring shame to her Nepali family and the Devs. Therefore, Sapna went to great lengths to cover-up her sexual exploits and pregnancy scares.

Over a one year period, when Sapna was 18 and 19 years old, Sapna had three pregnancy scares: one resulted in a natural miscarriage; one was terminated by taking an abortion pill; and one, reflected by a significantly late period, either was not a pregnancy or ~~it may have been reversed by taking the Plan B contraceptive pill~~. The Devs exerted tremendous pressure on her to maintain her purity. In this regard, they repeatedly expressed their frustration to Sapna's Papa in Nepal via lengthy e-mails copied to Sapna. In these e-mails, they insinuated, sometimes subtly and sometimes overtly, that they might cut off financial assistance to Sapna's biological family if she did not shape-up and emphasized their concern that Sapna's misbehavior, if exposed, would tarnish their reputation in the Nepali community.

However, the more pressure the Devs put on Sapna, the more rebellious she became until, one day, she moved out of the Dev home and declared her freedom as an "American girl." Sapna understood that no "Nepali girl" would be allowed to move out of the house unless she was married. Although the Devs and Sapna desperately tried to repair the relationship and find some kind of balanced middle ground, Sapna ultimately ended the relationship on February 1, 2004 after Ajay e-mailed her boyfriend, Will, to advise him that, if he was going to date Sapna, he had to respect Sapna's heritage and abide by Nepali cultural values. After reading the e-mail, Will broke up with Sapna almost immediately. Sapna was outraged and blamed Ajay. The next day, she went to the police and

accused Ajay of raping her two to three times a week for five years: from ages 15 through 20.

Once Sapna decided to end her relationship with the Devs, she, no doubt, feared she would also lose her path to American citizenship because she knew the Devs could reverse her adoption once they discovered the adoption was based on a false date of birth. In Sapna's mind, Ajay was to blame for her break up with Will and what she believed to be her pending deportation back to Nepal. To Sapna, Ajay took away her freedom and independence and now she would do the same by falsely accusing him of rape.

At trial, neither Sapna nor the prosecution were able to explain how Sapna only got pregnant or had pregnancy scares within a narrow window of time which perfectly coincided with her dating and having sex with older boys behind Ajay and Peggy's back. Similarly, neither Sapna nor the prosecution could explain why, given Sapna's allegation that Ajay raped her approximately 300 to 450 times from ages 15 to 18, Sapna never got pregnant nor had any pregnancy scares. These facts highly suggest that Sapna's allegations were false. Had Ajay been given a fair trial, these facts would have clearly come to light. Since he was not given a fair trial, reversal and a new trial are required.

STATEMENT OF APPEALABILITY

This appeal follows a final judgment following a trial and is authorized by Penal Code section 1237.

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