



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S No.1953-SB of 2012 (O&M)
Reserved on:17.05.2024
Pronounced on:24.05.2024

Yashpal alias Jasbir alias Jassu ... Appellant
Versus

State of Haryana ... Respondent

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ravinder Malik, Advocate
for the appellant.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J.

1. The present appeal has been preferred by the appellant against the judgment dated 12.06.2012 passed by the learned Sessions Judge, Rohtak whereby the appellant has been found guilty for commission of offence under Section 452 and 354 IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.5000/- under Section 452 IPC and to undergo rigorous imprisonment for one year and to pay a fine of Rs.2000/- under Section 354 IPC and in default of payment of fine to further undergo rigorous imprisonment for six months and three months respectively in FIR No.97 dated 28.01.2009 registered under Sections 354, 452, 500, 306 IPC at Police Station, Rohtak. However, he has been acquitted from the charge framed under Section 306 IPC on the ground that the prosecution has failed to prove its case beyond shadow of reasonable doubt.

FACTUAL BACKGROUND

2. In brief, the version put forth by prosecution is that a telephonic message was received on 28.01.2009 that Rajni wife of Sube Singh, resident of Singhpura



road, Rohtak has been hospitalized in PGIMS, Rohtak as she consumed some poisonous substance. ASI Mahender Singh reached to PGIMS, Rohtak and collected medical *ruqa* as well as obtained medical opinion of the doctor about fitness of said Rajni to record her statement. After finding her fit, he recorded her statement wherein she alleged that on 27.01.2009 at about 9 AM when she was alone at home, her neighbour Jasbir alias Jassu, resident of Surya Nagar Colony Rohtak came to her house and caught her hand in order to outrage her modesty. When she raised alarm, Jassu left her house and while leaving, he threatened to defame her in the colony. Thereafter, on 28.01.2009 she consumed poisonous tablet meant for preserving wheat as she was frightened by the threat of the appellant-accused to defame her. It was further alleged that her family members are not at fault and she was compelled by the appellant-accused to consume the poisonous substance and therefore, strict legal action be taken against him.

2.1. On the basis of the abovesaid statement, FIR (supra) was registered under Sections 354, 452, 506, 306, 511 IPC against the appellant-accused at Police Station Rohtak. Rajni died on 28.01.2009 itself and therefore, offence under Section 511 IPC was deleted. The appellant-accused was arrested on the same day. After completion of investigation, challan was filed against the appellant and the case was committed to the court of Sessions by the learned Chief Judicial Magistrate on 05.06.2010.

2.1. On presentation of challan and appearance of the accused in the Court, copies of documents relied upon by the prosecution were supplied to him, as required under Section 207 Cr.P.C.

2.2. Finding a *prima facie* case, charges under Sections 354, 452, 306 IPC were framed against the appellant-accused to which he pleaded not guilty and claimed trial.



2.3. In support of its case, the prosecution examined as many as 16 witnesses and closed its evidence.

2.4. Statement of the respondent-accused as required under Section 313 Cr.P.C. was recorded and the incriminating evidence was put to him. The respondent-accused denied the same and pleaded innocence but he did not lead any evidence in his defence. After appreciation of evidence led by both parties, the learned Sessions Judge convicted the appellant-accused for commission of offence as detailed herein above.

CONTENTIONS

3. Learned counsel for the appellant argued that there are material contradictions in the statement of deceased Ex.P-13 and statement of PW-1 Sube Singh, husband of the deceased. As per statement of deceased Ex.P-13, the appellant-accused had entered into her house on 27.01.2009 at about 9 AM, however, PW-1 Sube Singh deposed that he was informed by his wife that the appellant-accused visited their house at about 4/5 PM. Further the deceased in her statement stated that the appellant-accused was his neighbour in fields however, his husband in his statement stated that the appellant-accused was his neighbour in village in spite of the fact that house of the appellant is situated 15-20 killas away from the house of deceased. It was further argued that as per statement of the deceased Ex.P-13 she did not apprise her husband PW-1 Sube Singh that on 27.01.2009 at about 9 AM, the appellant-accused had entered into house, however, PW-1 Sube Singh deposed that his wife informed him that the appellant-accused entered into their house on 27.01.2009 and outraged her modesty. The appellant had a land dispute with the complainant and therefore, he was falsely implicated in the present case. The testimony of DW-1 stands un rebutted to the effect that the appellant is known as Yashpal @ Kala whereas



the deceased in her statement Ex.P-13 mentioned the name of the assailant as Jasbir @ Jassu, therefore, identity of the appellant is not established.

4. Per contra, learned State counsel supported the judgment passed by the learned Sessions Judge, Rohtak by contending that the prosecution has successfully proved its case and therefore, the appellant has rightly been convicted under Section 452 and 354 IPC.

ANALYSIS AND OBSERVATION

5. I have heard learned counsel for the parties and gone through the record of the case with their able assistance.

6. A perusal of the record would show that there are stark and glaring contradictions in the statements of the deceased and her husband, who appeared in the witness box as PW-1. A perusal of statement of PW-1 Sube Singh, husband of the deceased-Rajni, indicates that in his statement, he categorically stated that his wife consumed poison due to Jassu. In his cross-examination, he stated that Jassu and Yashpal are two different persons. A person named Jassu was his neighbour and Yashpal started living in his neighbour from last 3-4 years. Therefore, it is crystal clear that deceased-Rajni in her statement before the police named the assailant as Jasbir @ Jassu and not Yashpal and PW-1 Sube Singh himself stated in his statement that her wife consumed poison due to Jassu. Further, the appellant-accused in his statement under Section 313 Cr.P.C. as well as DW-1 Neelam Panchal have categorically stated that the appellant-accused is known as Yashpal alias Kala whereas the deceased and her husband in their statements stated that name of the assailant was Jasbir @ Jassu and thus, identity of the appellant-accused as assailant was not proved. The reasoning of the learned trial Court that a land dispute between the parties is sufficient to prove the fact that they knew each other is misconceived. In that scenario, the deceased



and her husband must have correctly named the appellant-accused in their statements. Therefore, finding of the learned trial Court that the deceased knew the appellant-accused to be a particular person irrespective of his name, keeping in view the fact that deceased and one Kuldeep had been found in compromising position at the tubewell of Kuldeep by the appellant-accused and he had rebuked them, is wholly misconceived. PW-1 in his cross-examination stated that it is wrong to suggest that Yashpal caught her wife in a compromising position with Kuldeep at the tubewell of Kuldeep. Furthermore, the deceased in her statement Ex.P-13 stated that the appellant-accused had entered into her house on 27.01.2009 at about 9 AM, however, PW-1 Sube Singh deposed that he was informed by his wife that the appellant-accused visited their house at about 4/5 PM. The deceased in her statement stated that the appellant-accused was his neighbour in fields whereas his husband in his statement stated that the appellant-accused was his neighbour in village. In fact, house of the appellant was situated 15-20 killas away from the house of deceased. As per statement of the deceased Ex.P-13 she did not apprise her husband PW-1 Sube Singh that on 27.01.2009 at about 9 AM, the appellant-accused had entered into their house, however, PW-1 Sube Singh deposed that it was his wife, who informed him that the appellant-accused had entered into their house on 27.01.2009 and outraged her modesty.

CONCLUSION

7. In view of the facts and circumstances of the case, this Court finds that the prosecution has miserably failed to establish its version beyond reasonable doubt. The judgment of conviction dated 12.06.2012 and order of sentence dated 14.06.2012 passed by the learned Sessions Judge, Rohtak is set aside. Resultantly, the instant petition stands allowed. The appellant-Yashpal is



acquitted of the charges framed against him. His bail bonds and surety bonds stand discharged.

8. Pending miscellaneous application(s), if any, shall also stand disposed of.

May 24, 2024
Pankaj*

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No