

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-1065-SB-2010 (O&M)

Date of decision: 16.02.2015

NARINDER KUMAR @ SODHI

.... Appellant

VS.

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MRS. JUSTICE RAJ RAHUL GARG

PRESENT: Mr. J.B.S. Gill, Advocate for the appellant.

Mr. Deepak Garg, AAG Punjab.

RAJ RAHUL GARG, J.

This appeal preferred by appellant Narinder Kumar @ Sodhi son of Satnam Singh against judgment dated 02.03.2010 of conviction rendered by Sh. K.C. Gupta, Additional Sessions Judge, Jalandhar whereby convicting the appellant for committing offences punishable under Sections 363, 366, 376 IPC by passing the order of sentence of the even date. The appellant was sentenced as under:

"Narinder Kumar 363 IPC To undergo RI for five years and fine of Rs. 500/-, in default of payment of fine, to undergo further RI for three months.

366 IPC To undergo RI for seven years and fine of Rs. 1000/-, in default of payment of fine, to undergo further RI for six months.

376 IPC To undergo RI for ten years and fine of Rs. 2000/-, in default of payment of fine, to undergo further RI for six months."

It is the case of kidnapping with rape of a minor girl. Complainant Balihar Singh son of Gulzar Singh expressed suspicion of rape on Raju daughter of Pappu alleging that on 08.06.2009 she came to his house to see his daughter (Prosecutrix). He along with his wife, son and daughter went to sleep after taking

dinner. He heard something at the gate of the house somewhere around 09.30 PM. He found that his daughter is missing. Thus he expressed his suspicion on Raju that she had abducted the prosecutrix. The matter was informed to Harnek Singh son of Tirath Singh Ex. Sarpanch of the village. They spent entire night in tracing the prosecutrix. At about 5.00 AM, the complainant came to know that the prosecutrix has reached the house of his co-brother Jaswant Singh situated in Geeta Colony. When they reached there, the prosecutrix was found. Prosecutrix weepingly told the complainant that she was taken by Raju with dishonest intention in the Haveli where one person was already there. Raju disclosed the name of the person to her as Narinder Kumar @ Sodhi and also introduced him as a rich person. He offered his friendship to prosecutrix to which she refused. Raju brought a glass of water and after putting two tablets she was forced to drink. Thereafter, she fell unconscious and was made to lay on the ground. Raju caught her by her arms whereas appellant Narinder Kumar @ Sodhi removed her Salwar and underwear and committed rape on her. Thereafter, Raju sprinkled water on her face and threatened her not to disclosed this fact to anyone. Thereafter, she was made to sit on the motorcycle between Raju and Narinder Kumar @ Sodhi and she was dropped near the house of sister of her mother.

On this statement of Balihar Singh the FIR of this case was registered. After completion, the case was investigated. Prosecutrix as well as accused were medically examined. Statement of the prosecutrix was recorded under Section 164 Cr.P.C. After completion of necessary investigation, the challan was put in the court.

Finding a prima-facie case against the appellant for committing offences punishable under Sections 363, 366 and 376 IPC, he was chargesheeted accordingly to which he did not plead guilty but claimed trial.

After taking prosecution evidence and recording of statement of

accused under Section 313 Cr.P.C., the judgment of conviction dated 02.03.2010 was recorded and the appellant was sentenced vide order of the even date as mentioned above.

It was contended by learned counsel for the appellant that the case is false. The appellant has been falsely implicated in this case. The true facts have not come to light. The prosecution story is not free from doubt. It is the case of the prosecution that Raju enticed away the prosecutrix but Raju has not been made accused. Later on when prosecutrix appeared as witness in the court, she started taking the name of Sonu resident of Chak Kalan stating that he took out some tablets and handed over these tablets to Raju and thereafter the appellant gave him some tablets thereafter all the accused forcibly poured water in her mouth for consumption of some tablets and thus she became semi conscious and thereafter rape committed on her by the appellant; but Sonu was also not made accused in this case.

During the course of hearing of arguments learned counsel for the appellant stated at bar that he does not contest the findings of the learned Trial Court recorded on merits of the case and pleaded that the ends of justice would be met if the sentence of the appellant is reduced to the minimum sentence provided for the offence. The other side simply contested the request contending that the case is serious one and the appellant is already undergoing sentence for life in another case FIR No. 219 dated 15.09.2008 under Section 302, 396, 120-B, 411, 201 IPC decided on 05.03.2013 by the learned Court of Sh. Arvind Malhotra, Sessions Judge, Una (Himachal Pradesh).

Ofcourse the offence is serious in nature, however, from the date of alleged commission of crime a sufficient long time has passed. After taking into consideration the contentions of the learned counsel for the appellants, I am of the

considered view that the ends of justice would be squarely met in this case if the sentence of appellant is reduced. As per custody certificate appellant has already undergone with remissions sentence of 6 years 4 months and 11 days.

In such circumstances, while maintaining the conviction recorded under Sections 363, 366 and 376 IPC against appellant Narinder Kumar @ Sodhi son of Satnam Singh sentence of accused for offence punishable under Section 376 IPC is reduced to the minimum sentence of 7 years. However, sentences punishable under Sections 363 and 366 IPC are maintained. Sentence of fine imposed stands maintained.

All the substantive sentences shall run concurrently.

In view of the above discussion, this appeal is dismissed with above modification.

(RAJ RAHUL GARG)
JUDGE

16.02.2015
Waseem