

In the High Court of Punjab and Haryana at Chandigarh

Crl. Appeal No. S-610-SB of 2008

Date of Decision: 11.2.2015

Maman

.....Appellant

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Bijender Dhankhar, Advocate
for the appellant.

Ms. Dimple Jain, AAG, Haryana.

SABINA, J.

Appellant had faced the trial in FIR No. 157 dated 8.10.2006, registered at Police Station Farrukh Nagar, District Gurgaon.

Prosecution story, in brief, is that on 7.10.2006, at about 7/7.30 P.M., prosecutrix, aged about 8-9 years, had gone to the shop of the appellant. Appellant called the prosecutrix inside the shop and committed the offence of rape.

After completion of investigation and necessary formalities, challan was presented against the appellant.

Charge was framed against the appellant under Section 376 (2) (f) of the Indian Penal Code, 1860 ('IPC' for short) vide order dated 22.5.2007.

In order to prove its case, prosecution examined 12 witnesses during trial.

Appellant when examined under Section 313 of the Code of Criminal Procedure, 1973, pleaded that he was innocent and had been falsely involved in this case.

Appellant, however, did not examine any witness in his defence.

Trial Court vide judgment/order dated 9.2.2008 ordered the conviction and sentence of the appellant under Section 376 (2) (f) IPC. Hence, the present appeal by the appellant.

Learned counsel for the appellant has submitted that the appellant had been falsely involved in this case. Prosecution had failed to prove its case.

Learned State counsel, on the other hand, has submitted that the prosecutrix had duly supported the prosecution case. Statement of the prosecutrix was corroborated by medical evidence.

Prosecutrix appeared in the witness box as PW-1. Prosecutrix had stated that she had gone to the shop of the appellant on the day of occurrence for purchasing household articles. Appellant took her inside and raped her. She became unconscious.

Complainant Nathu appeared in the witness box as PW-2 and deposed that his daughter aged 8-9 years, had gone to the shop of the appellant to purchase some household articles. He heard cries of his daughter and went towards the shop of the appellant. At that time, he was accompanied by Mohan and some other labourers. When he reached the spot, he found that his daughter was lying naked and was bleeding. On seeing them, appellant fled away from the spot. He took his daughter to the hospital and reported the matter to the police. Statement of PW-2

was corroborated by PW-3 Mohan.

PW-9 Dr. Neeru Yadav deposed that on 8.10.2006, she had medico legally examined the prosecutrix. After seeing the report of Forensic Science Laboratory, she gave her opinion that sexual intercourse had been committed on the patient.

PW-8 Dr. Naresh Kumar deposed that on 9.10.2006, he had medico legally examined the appellant and found that there was nothing to suggest that he was not capable of performing sexual intercourse.

Thus, in the present case, prosecution had been successful in proving its case. Prosecutrix was a young girl aged about 8-9 years at the time of occurrence. Statement of the prosecutrix to the effect that she had been raped by the appellant, is duly corroborated by the medical evidence. There is nothing on record to suggest that the prosecutrix or her father had any ill will against the appellant to falsely involve him in this case. In the facts and circumstances of the present case, the learned Trial Court had rightly ordered the conviction and sentence of the appellant qua the charge framed against him.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

February 11, 2015

Gurpreet