

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Crl. Appeal S-272-SB of 2004
Date of Decision : March 25, 2015

Jagmal Singh

.....Appellant

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE T.P.S. MANN

Present : Mr. S.S.Momi, Advocate

Mr. Vijesh Sharma, Deputy A.G., Haryana

T.P.S. MANN, J. (Oral)

The appellant was tried for the offences under Sections 376/511 IPC on the allegations that on 26.10.2002 at about 11.00 a.m., he had tried to commit rape upon the prosecutrix after taking her to the sugarcane fields of one Sumer Chand. Vide judgment and order dated 30.10.2003, the trial Court convicted him for the aforementioned offences and sentenced him to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.2,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of six months.

After hearing learned counsel for the parties and on going through the record, this Court finds that the prosecution has been successful in establishing the guilt of the appellant. The prosecutrix, while appearing as PW3 before the trial Court, had stated in detail

about the manner in which the occurrence had taken place. Complainant-Rajesh Kumar, who claimed to have seen the occurrence, was examined by the prosecution as PW4 and he fully corroborated the testimony of the prosecution. The medical evidence also corroborated the prosecution evidence. For these reasons, no case is made out for any interference in the conviction of the appellant.

The appellant has been sentenced to undergo imprisonment for five years. The allegation against him was of making an attempt to commit rape upon the prosecutrix. Out of the sentence of five years imposed upon him, the appellant has already undergone an actual period of two years, six months and seven days as depicted in the custody certificate produced by the State counsel. The appellant has also earned remissions of five months and two days. In all, he has completed a period of two years, eleven months and nine days out of the sentence of five years imposed upon him. The appellant is facing the agony of criminal prosecution for the last more than 12 years. Before the trial Court when he was examined under Section 235 Cr.P.C., he had stated that he was a poor person and there was none excepting him to look after his family.

Taking into consideration the totality of the circumstances, this Court is of the considered view that no useful purpose would be served by sending the appellant behind the bars, once again, to undergo the remaining sentence of imprisonment imposed upon him.

Ends of justice would be amply met if the substantive sentence of imprisonment is reduced to the one already undergone by him. At the same time, the fine of Rs.2,000/- imposed upon the appellant by the trial Court deserves to be enhanced.

Resultantly, the conviction of the appellant under Sections 376/511 IPC is maintained. His substantive sentence of imprisonment is reduced to the one already undergone by him. The amount of fine of Rs. 2,000/- is, however, enhanced to Rs. 20,000/- and in default of its payment, the appellant shall undergo rigorous imprisonment for one year.

The appeal is, accordingly, disposed of.

March 25, 2015
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(T.P.S. MANN)
JUDGE