

In the High Court of Punjab & Haryana at Chandigarh.

CRA-S-1735-SB-2010

Date of Decision: 04.12.2015

Amrik Singh

..... Appellant

Vs.

State of Punjab

..... Respondent

CORAM: HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Mr. Himanshu Puri, Advocate for
Mr. J.S.Ghuman, Advocate
for the appellant.

Mr. Surjeet Singh Chaudhary, DAG, Punjab.

RAJ RAHUL GARG,J.

This appeal is directed against the judgment dated 09.04.2010 rendered by learned Additional Sessions Judge, Taran Taran, whereby appellant-accused Amrik Singh was held guilty for offence punishable under Section 376 of Indian Penal Code (for short 'IPC') but acquitted for the offence under Section 506 IPC by giving him benefit of doubt. Vide order of sentence of even date, he was sentenced to undergo rigorous imprisonment for a period of 8 years and to pay a fine of ₹2,000/-. In default of payment of fine, to further undergo RI for 2 months.

Briefly, prosecution case is like this; that on 23.10.2006, at 4:00 P.M., at Khalra, statement of prosecutrix was recorded to the effect that she is 15/16 years old and has 3 brothers. Her mother had died about 14/15 years ago. Eldest brother namely Tarsem Singh is married and is residing separately. Complainant and her father Amrik Singh reside in the same house. The other brothers of the complainant namely Jaimal Singh and Sonu are daily wage workers. They did not return to the house in the evening. As per complainant, during intervening night of 22/23-10-2006, at about 12:30

A.M., she was sleeping on a cot in the courtyard of her house. Her father Amrik Singh was sleeping in the room and was heavily drunk. In a drunken condition, he got up and came to the cot of complainant. At that time electric bulb was on. Father of the complainant tied the *dupatta* on her mouth and broke the string of her *salwar* forcibly and put his penis in her vagina without her consent. She cried out. Her father after committing rape, had run away. Thereafter, the complainant removed *dupatta* from her mouth, raised alarm, which attracted Resham Singh and Kanso. Complainant told the entire story to them. Resham Singh and Kanso searched for accused-Amrik Singh but could not trace him. Complainant along with Resham Singh and Kanso had gone to the police for lodging the report, whereupon, FIR of this case was registered. Supplementary statement of complainant was recorded on 24.10.2006. By way of supplementary statement, she stated that her father was having a *datar* and gave a threat to kill her with the help of *datar* and then to throw her body into the canal. Under these circumstances, offence under Section 506 IPC was added. Statement of prosecutrix under Section 164 Cr.P.C. was also got recorded. After completion of investigations and on receipt of report of Chemical Examiner, and after arrest of the accused, the challan was put up before the Court.

Finding a prima-facie case against the accused, he was charge-sheeted for committing offence punishable under Section 376 and 506 of IPC to which he did not plead guilty but claimed trial. After taking entire prosecution evidence, statement of accused under Section 313 Cr.P.C. was recorded wherein he denied each prosecution allegation appearing against him and pleaded his false implication.

After hearing both the sides and appraising the entire material and evidence on record, the learned trial Court convicted the accused for committing offence punishable under Section 376 of IPC and also passed the order of sentence, as mentioned in the earlier part of this judgment.

I have heard learned counsel for the appellant and learned State counsel besides appraising the entire material and evidence on record.

At the very outset, the learned counsel for the appellant-accused contended that he did not assail the findings of learned trial Court recorded on merits of the case. In fact, the accused has already completed the period of sentence awarded to him.

Learned State counsel has drawn my attention to the custody certificate placed on file. Custody certificate of Amrik Singh shows that he has already undergone the total period of sentence which is 08 years. Even learned State counsel also has no serious objection if the sentence of appellant-accused is reduced to the one already undergone.

Under the above-discussed circumstances, since the learned counsel for the appellant-accused has not contested the findings of learned trial Court on merits, therefore, the impugned judgment of conviction dated 09.04.2010 is maintained whereas modifying the impugned order of sentence, the sentence awarded to the appellant-accused by the learned trial Court is reduced to the one already undergone.

Disposed of.

04.12.2015
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(RAJ RAHUL GARG)
JUDGE