

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

Crl. Appeal D-1806-DB of 2014
Date of Decision : March 23, 2015

Narinder Singh

.....Appellant

VERSUS

State of Punjab and others

.....Respondents

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

Present : Mr. Abinashi Singh, Advocate

T.P.S. MANN, J.

In order to challenge the acquittal of respondents No.2 to 4 of the charges under Sections 363 and 366-A IPC, as recorded by the Sessions Judge, Rupnagar vide judgment dated 30.7.2014, the appellant, who is uncle of the prosecutrix, has filed the present appeal.

Respondents No.2 to 4, alongwith Sukhwinder Singh @ Nishu, were tried on the allegations that on 10.6.2012 at about 4.00 p.m., Sukhwinder Singh @ Nishu kidnapped the prosecutrix, aged about 14 years, after alluring her for marriage. Said Sukhwinder Singh @ Nishu was helped by Harnek Singh and Sukhwinder Kaur @ Ghoghar in kidnapping the prosecutrix. The appellant informed the police and, accordingly, FIR under Sections 363/366-A/34 IPC was registered at Police Station Sadar, Rupnagar. On 12.6.2012, Sukhwinder Singh @ Nishu was apprehended when he alongwith

Ramandeep Kaur was present at village Bindrakh. Subsequently, offence under Section 376 IPC was added to the FIR.

At the trial, respondents No.2 to 4 as well as Sukhwinder Singh @ Nishu were charged for the offences under Sections 363 and 366-A IPC. Sukhwinder Singh @ Nishu was also tried under Section 376 IPC. Vide impugned judgment, the trial Court acquitted respondents No.2 to 4 of the charges against them. However, Sukhwinder Singh @ Nishu was convicted under Sections 363 and 376 IPC and sentenced to undergo imprisonment for seven years.

Learned counsel for the appellant has submitted that the trial Court erred in acquitting respondents No.2 to 4 of the charges against them on the ground that in her statement made before the Investigating Officer, the prosecutrix had not named respondents No.2 to 4 as being involved in the kidnapping and allurement of the prosecutrix. According to him, the prosecutrix in her statement Ex.DA recorded under Section 161 Cr.P.C., had specifically named respondents No.2 to 4 to be instrumental for committing the offences under Sections 363 and 366-A IPC as they had helped the main accused, namely, Sukhwinder Singh @ Nishu in kidnapping the prosecutrix after alluring her with marriage. It is also submitted that even while appearing before the trial Court as PW4, the prosecutrix stated very clearly that respondents No.2 to 4 were responsible in her kidnapping by Sukhwinder Singh @ Nishu-accused and she was lured into marriage.

Lower Court record requisitioned on the last date of hearing has been received. On going through the same, this Court finds that the prosecutrix did state during her examination-in-chief that respondent-Sukhwinder Kaur @ Ghoghar had come to her house and told her that she was all alone in her house and the prosecutrix should accompany her and help her in the domestic work. She further stated that respondent-Sukhwinder Kaur @ Ghoghar asked the father of the prosecutrix and with his permission took the prosecutrix to her house where she helped her in domestic work. She further stated that respondent-Sukhwinder Kaur @ Ghoghar told her to accompany her to the canal as her cousin Sukhwinder Singh @ Nishu was present there as he had come to meet her. At that time, respondent-Harnek Singh was also there. Further, respondent-Sukhwinder Kaur @ Ghoghar told her that she should accompany Nishu as he wanted to marry her. The prosecutrix refused to accompany Nishu but Sukhwinder Kaur @ Ghoghar forced her to accompany Nishu. However, during her cross-examination, her attention was drawn to her statement Ex. DA made before the police under Section 161 Cr.P.C. wherein all the above said facts were not so recorded. As regards her deposition in examination-in-chief that respondent-Parveen Kaur, who was sister of respondent-Sukhwinder Kaur @ Ghoghar, had tied her hands and gagged her mouth whereafter Sukhwinder Singh @ Nishu committed rape upon her, she was again confronted with her statement Ex. DA

wherein it was not so recorded. She was also confronted on the aforementioned two aspects with her statement Ex. PE made before the Magistrate under Section 164 Cr.P.C. wherein also it was not so recorded.

In view of the above, it cannot be said that respondents No.2 to 4 were privy to the kidnapping of the prosecutrix without the consent of her lawful guardian or that they had forced the prosecutrix to illicit intercourse with Sukhwinder Singh @ Nishu-accused. Resultantly, no case is made out for setting aside the impugned judgment to the extent of acquitting respondents No.2 to 4 of the charges under Sections 363 and 366-A IPC.

The appeal is without any merit and, accordingly, dismissed.

**(T.P.S. MANN)
JUDGE**

**(MAHAVIR S. CHAUHAN)
JUDGE**

March 23, 2015
ajay-1

CRMs 37058 and 37059 of 2014 in
Crl. Appeal D-1806-DB of 2014

Narinder Singh Vs. State of Punjab and others

Present : Mr. Abinashi Singh, Advocate
for the applicant/appellant.

CRM 37059 of 2014

Allowed, as prayed for.

CRM 37058 of 2014

Heard. Sufficient cause has been shown for condoning the delay in filing of the appeal. The application is, therefore, accepted and the delay of 115 days in filing of the appeal is condoned.

(T.P.S. MANN)
JUDGE

(MAHAVIR S. CHAUHAN)
JUDGE

March 23, 2015
ajay-1