

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

CRA-S-2367-SB of 2011  
Date of decision: 30.09.2015

Mahender Singh

...Appellant

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest? Yes

Present: Mr. J.S.Mehndiratta, Advocate,  
for appellant.

Mr. Naveen Sheoran, DAG, Haryana.

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**SHEKHER DHAWAN, J.**

Present appeal is challenge to the judgment of conviction dated 16.07.2011 in case FIR No.195 dated 12.09.2010 under Sections 363, 366, 376 IPC, Police Station Pundri and order of sentence dated 18.07.2011 whereby appellant Mahender Singh was sentenced as under:

“I sentence the convict-accused under Section 376 IPC to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.10,000/-. In default of payment of fine he shall further undergo rigorous imprisonment for three months. I further sentence the convict-accused under Section 366 IPC to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.5,000/-. In default of payment of fine he shall further undergo rigorous imprisonment for one month. I further sentence the convict-accused under Section 363 IPC to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.5,000/-. In default of payment of fine he shall

further undergo rigorous imprisonment for one month. All the substantive sentences shall run concurrently”.

2. Relevant facts of the case that on 10.09.2010, complainant Naresh Kumar filed written complaint before the police that his daughter, aged about 15 years and student of 10<sup>th</sup> class was missing. On 10.09.2010 at about 10 AM Mahender Singh, accused in the present case, aged about 35 years, a married man having two children, had enticed away his daughter. On this police started the investigation and later on prosecutrix was recovered from the possession of accused on 05.10.2010 at Karnal. Remaining investigation/formalities were completed and challan presented in the Court.

3. During trial learned trial Judge completed the various proceedings of the case including framing of charge, recording of statement of prosecution witnesses, examination of accused under Section 313 Cr.P.C. and after considering the prosecution version and defence version held the appellant-accused guilty and convicted and sentenced. Thereafter present appeal before this Court.

4. While arguing on these points, learned counsel for appellant-accused, submitted that appellant was sentenced to undergo 7 years of rigorous imprisonment whereas appellant has already undergone the actual sentence of 5 years 8 months and 27 days as per latest custody certificate. So, his sentence be reduced to the period already undergone by him while remaining in custody during investigation and trial and post conviction period of this case.

5. Learned State counsel while opposing the appeal submitted that the prosecutrix in this case was a girl aged about 15 years and there are no

grounds calling for any leniency on the point of sentence.

6. Having considered the entire prosecution case and defence version, this Court is of the view that prosecution case is based upon testimony of PW-4 prosecutrix as well as statement of complainant Naresh Kumar PW-3. Their version duly supported and corroborated by medical evidence by way of statement of PW-7 Dr. Vijay Verma, PW-8 Dr. Renu Chawla, apart from statements of official witnesses who had conducted the investigation proceedings. The defence version is not believable and was rightly discarded by the Courts below. There being no challenge to the judgment of conviction and otherwise also the case being based on ocular version and duly supported by medical evidence and other witnesses. The judgement of conviction does not call for any interference and the appeal against judgment of conviction dated 16.07.2011 stands dismissed.

7. As regard to challenge of order of sentence dated 18.07.2011, this Court is certainly inclined to take a little lenient view on the point of sentence. Accused-appellant has already undergone almost entire sentence in this case. He was awarded 7 years RI and a little lenient view on the point of sentence can certainly be taken. The sentence awarded in this case is reduced to 6 years RI and fine reduced to ₹1000/- only as appellant is not in a position to engage a counsel and he is being represented by legal aid counsel. In case of default of payment of fine, he shall undergo one month SI.

8. With the above modifications in the order of sentence dated 18.07.2011, present appeal stands disposed of.

**September 30, 2015**

msd

**(SHEKHER DHAWAN)  
JUDGE**