

323 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA No. S-2209-SB of 2003 (O&M)
Decided on : 11.02.2015

Manjit Singh

...Appellant

versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. A.S. Kalra, Advocate,
for the appellant.

Mr. Gurinderjit Singh, DAG, Punjab.

K. C. PURI, J. (ORAL)

Challenge in this appeal is to the judgment of conviction dated 19.11.2003 and order of sentence dated 21.11.2003, passed by Shri Sham Sunder, Additional Sessions Judge, Kapurthala, vide which the present appellant was acquitted under Section 376 read with Section 511 of the Indian Penal Code, but was convicted under Sections 452 and 354 of the Indian Penal Code and sentence to undergo imprisonment and fine as under:-

Under Section	Sentence
452 IPC	To undergo rigorous imprisonment for a period of four years and to pay a fine of Rs. 1000/- and in default of payment of fine, to undergo further rigorous imprisonment for a period of one month.
354 IPC	To undergo rigorous imprisonment for a period of one year and to pay a fine of Rs. 500/- and in default of payment of fine, to undergo further rigorous imprisonment for a period of fifteen days.

However, both the sentences were ordered to run currently.

Briefly stated, prosecutrix aged about 14 years (name withheld),

was present in her residential house, constructed in the fields, in the area of village Mirzapur. On 15.06.2001, father of the prosecutrix had gone to Village-Singha, Police Station Lambra, District Jalandhar, on account of the death of his near relation. His son Pardeep Singh, on account of vacations, had gone to his maternal uncle house at Village-Dadwindi, P.S. Sultanpur Lodhi. On 23.06.2001, at 3.00 p.m., father of prosecutrix came back and his wife Satwant Kaur told him that on 15.06.2001, on account of illness, she had gone to Nadala, to bring medicine, leaving the prosecutrix in the house. She further told him that on 15.06.2001 at 1.30 p.m., when she came at her residence at Village-Mirzapur, she heard the voice “save save” of prosecutrix from the drawing room of the house and on hearing the voice of prosecutrix, Satwant Kaur saw inside the drawing room through the door and found that Manjit Singh-accused/appellant was attempting to commit rape with the prosecutrix. Satwant Kaur raised noise and Manjit Singh ran away. Satwant Kaur did not disclose the fact on account of absence of Lakhwinder Singh-complainant. It is further alleged that Manjit Singh got admitted himself after getting fabricated injuries. Lakhwinder Singh narrated the occurrence to the police, on the basis of which, FIR in question was recorded. Accused was arrested.

After completion of investigation, challan was presented. On presentation of challan, copies of same were supplied to the accused free of costs, as envisaged under Section 207 Cr.P.C.

Thereafter, charge under Sections 452 and 376 read with 511 of the Indian Penal Code was framed against the accused, to which the accused pleaded not guilty and claimed trial.

In order to bring home the guilt of the accused, prosecution examined Lakhwinder Singh as PW-1, prosecutrix as PW-2, Satwant Kaur as PW-3, Sub Inspector-Attar Singh as PW-4 and Sukhjinder Singh, Teacher Math, Guru Hargobind Senior Secondary Public School, Nadala as PW-5 and closed the evidence, after tendering certain documents.

The accused was examined under Section 313 Cr.P.C, wherein all the incriminating evidence was put to him, to which he denied and pleaded innocence and false implication and further stated that he has been implicated due to inimical relations as the complainant party had caused him numerous injury.

The accused was called upon to lead defence evidence and he has examined Dr. Narinder Singh, Medical Officer, Civil Hospital, Kapurthala as DW-1 and thereafter, closed the evidence.

The learned trial Court, after appraisal of the evidence, acquitted the accused under Section 376 read with Section 511 of the Indian Penal Code. However, the accused/appellant-Manjit Singh was convicted for the offences punishable under Sections 452 and 354 of the Indian Penal Code as narrated above.

Feeling dissatisfied with the above said judgment of conviction and order of sentence dated 19.11.2003 and 21.11.2003 respectively, passed by Shri Sham Sunder, Additional Sessions Judge Kapurthala, the appellant has filed the present appeal.

Learned counsel for the appellant has not challenged the conviction, but has submitted that appellant has two daughters and he is only bread earner in the family. The appellant was given beatings for which

the father of prosecutrix have been convicted. He is facing trial for the last more than thirteen years. Conviction is under Sections 354 and 452 of the Indian Penal Code only. The sentence is on higher side. He has further contended that the appellant has already undergone incarceration for a period of five months and five days including remission of twelve days out of the substantive sentence. So, prayer has been made for taking lenient view regarding quantum of sentence.

The prayer has been opposed by the State counsel.

I have carefully considered the submissions made by both the parties and have gone through the records of case.

The accused-appellant has been acquitted under Section 376 read with Section 511 of the Indian Penal Code. He is facing the trial for the last more than thirteen years. He is not previous convict nor involved in any other case. As per conviction slip, he has already undergone incarceration for a period of five months and five days including remission of twelve days out of the substantive sentence. The appellant has submitted that he has two daughters and there is no one to support his family. The accused is on bail since 16.03.2004 i.e. for the last about eleven years.

So, considering all the circumstances, the sentence of the appellant under Section 452 and 354 of the Indian Penal Code stands reduced to the period already undergone. However, he is directed to pay compensation to the tune of Rs. 20,000/- under Section 357 Cr.P.C. to the prosecutrix. The said amount shall be deposited before the trial Court within two months and on realization of the said amount, the same shall be

paid to the victim. In case, the amount of compensation is not deposited within two months from today, in that case, the appeal would be deemed to have been dismissed.

The appeal stands disposed of accordingly.

A copy of the order be conveyed to the concerned quarter for compliance.

February 11, 2015
dk kamra

(K.C. PURI)
JUDGE