

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Appeal No. S-5271-SB of 2014(O&M)
Date of decision : 15.12.2015

Amit

..... Appellant

versus

State of Haryana

... Respondent

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Rajesh Duhan, Advocate
for the appellant

ANITA CHAUDHRY, J. (ORAL)

Crl. Misc. No. 39117 of 2014

For the reasons mentioned in the application, same is allowed and delay of 385 days in filing the appeal is condoned.

Crl. Appeal No. S-5271-SB of 2014

The appellant was convicted and sentenced under Sections 323 and 342 IPC and considering his young age, character and antecedents he was sentenced to the period already undergone i.e. from 06.02.2013 till 19.3.2013. Aggrieved by the conviction and sentence this appeal has been preferred.

Record had been called for.

A complaint was made by Komal Devi who was Peon in Oriental Bank of Commerce. The accused was also a temporary Peon in the said bank. A complaint was lodged on 05.02.2013 that the accused had an evil eye on her and was harassing her since long. During lunch time the complainant was present in the basement of the Bank and the accused strangled her with a cloth

due to which she lost consciousness for a while and when she gained consciousness, she found that the accused had again come and tried to throttle her and so much force was used that she urinated and fell unconscious. When she gained consciousness, she found that the door of the basement was locked from outside. She tried to raise alarm but could not do so. After a while Amit opened the door. She pleaded for mercy but in the meantime Mr. Kapoor, Manager of the Bank came down stairs and on seeing him the accused left her and threatened her with dire consequence. The same evening the complainant got herself medically examined. On the basis of this statement, FIR No. 145 dated 05.02.2013 under Sections 323, 354, 342, 307 and 506 IPC was registered. After completion of investigation, challan was filed under the aforesaid Sections. The accused pleaded not guilty. The prosecution examined the complainant, Rajinder Kapoor, Senior Manager of the Bank, Medical Officers and the Police Officials. The accused denied the allegations and pleaded false implication. No evidence by way of defence was led. The trial Court minutely examined the evidence and had observed that some of the allegations were false and the charges under Section 354 IPC were not proved. The appellant was convicted under Sections 323, 342 IPC and was sentenced to the period already undergone which was about 1 ½ months.

The submission made on behalf of the appellant is that the medical evidence does not support the prosecution case and Manager did not support the complainant's version and it was a case of acquittal. The counsel has referred to the statement made by the complainant as well as the statement made by Dr. Nipun Kalra. The

counsel had referred to the cross examination and the statement of medical officers. It was urged that the Bank Manager did not support the complainant and there should have been ligature mark if it was a case of strangulation.

The incident took place on 04.02.2013. The medical examination was carried out the same evening. The medical officer had found the following injuries:-

1. A reddish bruise measuring 4x0.5 cm present over the anterior aspect of neck.
2. A reddish abrasion present over the little finger of left hand.
3. A small abrasion present over the tip of the tongue.

The bed sheet and the newspaper which were found in the basement were sent for analysis and urine was detected on exhibit 1 which supported the version given by the complainant. The crime visit report Ex. PY had showed that there was a redish mark on the front side of neck of the victim. The medical officer had also found a dark bruise measuring 4x0.5 cm over the anterior aspect of neck. The injuries were found to be simple in nature. The medical officer had made a statement that the injuries were not dangerous to life and the trial Court had recorded acquittal under Section 307 IPC.

Perusal of the cross examination effected on the complainant would show that suggestions were given to the complainant that she was infatuated with the accused which were denied by her.

Rajinder Kapoor, Sr. Manager had stated that after lunch he went to the basement for operation of locker of a customer and

after operating the locker when he was returning he saw that Komal Devi and Amit Kumar were coming upstairs and Komal Devi was saying that she was not feeling well and in his presence Komal Devi had told the bank incharge in the presence of her husband that there was scuffle between her and Amit.

Cumulatively if the evidence led by the prosecution is examined it is found that the ocular version given by the complainant finds support from the medical evidence. The same statement was given by the Bank Manager. The Bank Manager was not a witness to the occurrence. He had arrived on the scene only when the complainant was coming up. The Bank Manager had also stated that the complainant had complained about the scuffle. There is no reason to take a different view than the one taken by the Court below. The trial Court had already taken a very lenient view in the matter. There is no merit in the appeal.

The appeal is dismissed.

Record be sent back.

December 15, 2015

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**(ANITA CHAUDHRY)
JUDGE**