

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Appeal No.S-2139-SB of 2003
Date of Decision: January 14, 2015

Jagga Singh alias Jagsir Singh

...Appellant

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Vishal Rattan Lamba, Advocate
Legal Aid Counsel for the appellant.

Mr.A.S.Klar, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present appeal has been filed by the appellant against the judgment of conviction and order of sentence dated 07.10.2003, passed by learned Addl. Sessions Judge, Bathinda.

The perusal of the record shows that vide judgment dated 07.10.2003, learned Addl. Sessions Judge, Bathinda decided two session cases i.e. one FIR case instituted against Jagga Singh alias Jagsir Singh vide FIR No.140 dated 18.10.2000 under Sections 363 and 376 IPC registered at Police Station Sangat and another complaint case filed by Darshan Singh against Nar Singh under Sections 376/34 IPC, in which charges were framed under Sections 363 and 376 IPC.

Learned Addl. Sessions Judge, Bathinda held guilty both

the accused, convicted and sentenced them to undergo rigorous imprisonment for a period of three years three months and to pay a fine of ₹500/- under Section 363 IPC and in default of payment of fine to further undergo rigorous imprisonment for a period of six months. Accused-appellant Jagga Singh alias Jagsir Singh was further convicted and sentenced to undergo rigorous imprisonment for a period of seven years and to pay a fine of ₹ 1000/- under Section 376 IPC and in default of payment of fine, to further undergo rigorous imprisonment for a period of one year. Co-accused Nar Singh was acquitted of the charge under Section 376 IPC. Both the sentences of appellant Jagga Singh alias Jagsir Singh were ordered to run concurrently.

As argued, appeal filed by co-accused Nar Singh has been abated vide order dated 07.01.2015 as Nar Singh expired during pendency of the appeal.

The brief facts of the prosecution case are that Darshan Singh got recorded his statement Ex.PF to ASI Hukam Chand, in which he stated that he got married in the year 1981 with Charanjit Kaur and four daughters and two sons were born. On 15.10.2000, after taking meal, they went to sleep and in the morning, they found that their daughter was not in the house. He searched for her daughter but could not trace her and he has doubt that his daughter has been enticed away by Nar Singh alias Guggi and Jagga Singh Singh alias Jagsir Singh with some bad intention for committing illegal acts by giving some allurements or by giving some threats as they had

been moving in front of their house for many days.

As per prosecution version, both the accused committed rape upon her against her wishes and kept her at Dhani of Nar Singh for two days. The daughter of complainant was recovered with the help of the police and one Piara Singh. The prosecutrix was medico legally examined. After necessary investigation, challan was presented against appellant.

On presentation of challan against appellant, copies of challan and other documents were supplied to him under Section 207 Cr.P.C. Finding prima facie case, the appellant was charge-sheeted under Sections 363 and 376 IPC, to which he pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 Dr.Ramesh Rani Thukral, Medical Officer, who medico legally examined the prosecutrix and found hymen absent. She further deposed that after seeing the report of doctor, possibility cannot be ruled out that prosecutrix was subjected to rape. PW-2 Dr.Kasturi Lal, Medical Officer medico legally examined accused-appellant. PW-3 prosecutrix deposed as per prosecution version. She stated that she was sleeping in the Courtyard. Both the accused present in the Court, entered their courtyard and put their thumb on her neck stating that if she raised raula, they will kill the entire family. At that time, both the accused were having muffled faces and they made her to sit on scooter in between them. Then they took her at Dhani of Guggi @ Nar Singh. She further deposed that thereafter, she was taken to

Chobara and when they switched on the light and removed the covers from their face, then she recognized them as Nar Singh and Jagga. They committed rape upon her. They kept her there for four days and all the four days, they had been raping her against her consent. She stated that on the fourth day, her father reached at the Dhani along with police and Piara Singh. On seeing her father, she started weeping and told him what had happened with her. She was medically examined on that very day. The clothes which she was wearing, were handed over to the doctor. She further deposed that police had not earlier challaned Guggi @ Nar Singh as he is a rich man. Then, her father filed a criminal complaint against Nar Singh. PW-4 Darshan Singh, father of the prosecutrix also deposed as per prosecution version. PW-5 Piara Singh deposed that about two years and three months back, he joined the police party and went to the Dhani of Nar Singh accused. Complainant Darshan Singh was also with them. The door of the house was bolted from outside and after opening the door, they went to the chobara and prosecutrix was recovered. She started weeping and told her father that Nar Singh and Jagga Singh abducted her from the house and raped her against her wishes. Her condition was precarious. Piara Singh further deposed that recovery memo Ex.PJ of the girl was prepared and he identified his signatures on the same. PW-6 Head Constable Harbhajan Singh and PW-7 Head Constable Jagjit Singh are formal witnesses, who tendered into evidence their affidavits Ex.PL and PK respectively. PW-8 ASI Hukam Chand, who is the Investigating

Officer, deposed regarding investigation conducted by him in the present case.

At the close of prosecution evidence, the accused-appellants were examined under Section 313 Cr.P.C. and they denied the correctness of the evidence and pleaded themselves as innocent. Accused-appellant Jagga Singh alias Jagsir Singh further pleaded that he is married person and has two minor children and working as Siri with Nar Singh at that time. He further stated that prosecutrix came to him and told that her father wants to kill her with Kirpan because she has refused to marry with the person of her father's choice and he also asked Amarjit Kaur to bring him (appellant) and his mother. Amarjit Kaur called appellant and his mother at the house of Amarjit Kaur and they all suggested prosecutrix to go back to her parents' house but she flatly refused and told that she will not go back and if she is compelled to go back, then she will commit suicide. Appellant further deposed that to save prosecutrix's life, he went with her to village Jai Singh Wala to his sister's house and on the next day, he and Balkaran Singh Sarpanch of village Jai Singh Wala and appellant's brother-in-law Balbir Singh produced/brought prosecutrix to the police station Sangat Mandi, where prosecutrix narrated the story against her father but the police did not record her statement and called Darshan Singh and after sometime Darshan Singh and Fateh Singh son of Guranditta Singh came in the police station. Police allowed prosecutrix to go to her parents' house and also directed Darshan Singh not to harass her and afterwards at the

instance of Fateh Singh and Darshan Singh, he was falsely implicated in this case because Guranditta Singh and others murdered Gurdip Singh, real brother of Nar Singh and Fateh Singh and others were pressurizing Jang Singh and others to withdraw the case and Nar Singh was also falsely implicated in this case due to enmity with Guranditta Singh because Darshan Singh is party-men of Guranditta Singh and Fateh Singh.

In defence, accused-appellant examined DW-1 Atma Singh, DW-2 Amarjit Kaur, DW-3 Jasmer Kaur, DW-4 Tej Kaur, DW-5 Gulzar Singh, DW-6 Balbir Singh, DW-7 Jaspal Kaur and DW-8 Head Constable Dalbir Singh.

The learned trial Court, after appreciation of the evidence, convicted and sentenced the appellant, as stated above.

At the time of arguments, learned counsel for the appellant argued that false case has been registered against the present appellant and he has been falsely implicated in this case. He further argued that no such occurrence has ever taken place. The defence version is more probable. The prosecutrix left the house and went to the house of Amarjit Kaur as she did not want to marry under pressure of her father etc. Learned counsel for the appellant, therefore, argued that there being merit in the appeal, the same should be allowed and appellant should be acquitted.

On the other hand, learned State counsel argued that the case of the prosecution has been duly proved. There is nothing to show that the accused has been falsely implicated in this case.

Prosecutrix has deposed against the accused and she has been recovered from the chobara of Dhani of Nar Singh. He further argued that defence version is not believable and it is an after-thought. Learned State counsel, therefore, argued that there being no merit in the appeal, the same should be dismissed.

I have heard learned counsel for the appellant as well as learned State counsel and have gone through the record carefully and minutely.

From the evidence on record, I find that the prosecutrix has consistently deposed regarding prosecution version against the present appellant. Her statement has been duly supported and corroborated by her father Darshan Singh. Further, the prosecution version is supported and corroborated by statement of PW-5 Piara Singh, who was present with police party when the prosecutrix was recovered. The oral statements of PWs are duly supported and corroborated by medical evidence as well as investigation of the case. Nothing has been pointed out as to why the appellant has been falsely implicated in this case. PWs are consistent on material and immaterial points. There are no material improvements in the prosecution version. There is nothing in the cross-examination of the PWs, which may make their statements unreliable. Further, in the defence version of the accused in the statement under Section 313 Cr.P.C., nothing has been mentioned/pleaded that when prosecutrix went to the house of Amarjit Kaur and she did not want to go back to her parents house, then why she called present appellant along with

his mother. The appellant is already married person having two children, why he took prosecutrix to his sister's house in another village. Why this matter was not brought to the notice of the Sarpanch or other persons. The defence version cannot be believed and it is concocted one and after-thought. The defence witnesses have also deposed regarding defence version including Amarjit Kaur, which is not believable. There is nothing to show that prosecutrix made any statement to the police or she was produced in the police station by the accused and others.

Further, I find that even if it is taken that Guranditta Singh has enmity with Nar Singh, even then, why Darshan Singh would put on stake reputation of his family and of his unmarried daughter. Further, I find that why the police officials would deposed falsely when they have no enmity. There is nothing to show as to why the PWs would depose falsely against accused. The defence version is not believable. There is nothing on the record to show that prosecution version is false. There is also nothing on the record to show that appellant has been falsely implicated in this case.

In view of the above discussion, I find that prosecution has duly proved its case by leading cogent evidence against the appellant Jagga Singh alias Jagsir Singh. The judgment of conviction and order of sentence dated 07.10.2003 passed by learned Addl. Sessions Judge, Bathinda are correct and as per law.

Therefore, finding no merit in the present appeal, the same is dismissed.

Since, appellant Jagga Singh alias Jagsir Singh is on bail, his bail bonds stand annulled. He is directed to surrender himself before the jail authorities immediately for completing remainder of sentence, failing which the concerned authority shall proceed against him in accordance with law.

January 14, 2015
Vgulati

(INDERJIT SINGH)
JUDGE