

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.596 of 2015 (O&M)

.....

Date of decision:21.2.2015

Gurpreet Kaur

...Petitioner

v.

State of Punjab and another

...Respondents

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Rajesh Narang, Advocate for the petitioner.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 397 Cr.P.C. against the impugned order dated 9.2.2015 passed by learned Additional Sessions Judge, Fazilka, vide which the application filed under Section 319 Cr.P.C. by the prosecution has been dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that the FIR in the present case has been got registered under Section 376-D IPC against Amrik Singh and one unknown person by the prosecutrix. As per the FIR, the prosecutrix aged about 19 years when went to 'Nohra' (cattle shed) of the cattle, then accused Amrik Singh, who is residing in front of that 'Nohra' along with one other haircut fashion boy, who covered his face, entered her 'Nohra'. The person,

who had covered his face, put 'Chunni' on her mouth and closed her mouth and Amrik Singh with his help committed rape with her without her consent. The prosecutrix while appearing in the Court as PW-4 stated that on 19.8.2014 at about 8.15 p.m., she had gone to 'Nohra' to feed their cattle. In the meanwhile, two boys came there. One of them was Amrik Singh and other was Gurmit Singh.

A perusal of her statement nowhere shows from where she came to know that Gurmit Singh was the second person, who came with Amrik Singh and was having covered face. It is admitted at the time of arguments that in the FIR, it is written as unidentified person with covered face. During investigation, the name of present petitioner Gurmit Singh did not come. The co-accused has not nominated him. He has not been kept in column No.2. Neither investigation had been conducted against him nor challan has been presented against him nor his name has been kept in column No.2. There is also nothing on the record as to how the prosecutrix now has come to know that the second person was Gurmit Singh and on which basis she is naming Gurmit Singh as the second person with covered face, who helped Amrik Singh in committing rape. There is no other evidence or circumstance to show that the unknown person was Gurmit Singh. Therefore, from this evidence, it does not appear to the Court that the present petitioner is involved in the commission of the offence. The application filed under Section 319 Cr.P.C has been rightly dismissed by the learned Additional Sessions Judge, Fazilka.

Therefore, finding no merit in the present criminal revision

petition, the same is dismissed and the above order dated 9.2.2015 passed by learned Additional Sessions Judge, Fazilka, is upheld.

February 21, 2015.

(Inderjit Singh)
Judge

hsp