

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-D-731-DB-2013

DATE OF DECISION: February 15, 2016

Roop Singh and another

...Appellants

versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Arihant Jain, Advocate for the appellant

RAMENDRA JAIN, J.

By way of the present appeal, the appellants have assailed the judgment of acquittal dated 6.4.2013 passed by the Additional Sessions Judge (Fast Track Court), Patiala.

The facts leading to filing of the present appeal are that at around 6.00 p.m. on 14.6.2010, the younger daughter, namely, Reena Devi @ Reena Rani of the appellants had gone to tuition class. However, she did not return. On the very same day, at around 9.00/9.30 p.m., appellant No.1

telephonically contacted his daughter Charno Devi @ Harpreet Kaur, married at village Mandaur, District Patiala, to make enquiry that whether Reena Devi had come to her house. Whereupon, she apprised that Reena Devi @ Reena Rani would be coming in the next morning. On the next day, Charno Devi @ Harpreet Kaur apprised him that Reena Devi @ Reena Rani had died due to some poisonous substance administered by respondent No.2. Accordingly, he along with his son Jasbir Singh and daughter Charno Devi @ Harpreet went to Civil Hospital, Samana and met Jarnail Singh, who apprised that respondent No.2 had enticed away his daughter with a promise to marry her. Jarnail Singh also apprised that respondent No.2 with Gurtej Singh, Birbal Singh and Darshan Singh took his daughter in a vehicle bearing registration No.DL-4QD-2966 to a sheller at Bhawanigarh Road, Samana. Birbal Singh was working as Chowkidar at the aforesaid sheller. These persons had raped his daughter in a room there. At around 4.00 a.m. on 15.6.2010, the aforesaid persons took the deceased to the house of respondent No.2, where she raised hue and cry. The police was informed. Thereafter, he came to know that the aforesaid persons after committing gang rape with his daughter administered her some poisonous substance. Resultantly, she died. No action was taken by the police. However, a case under Section 309 IPC was registered vide FIR No.214 dated 17.6.2010 at Police Station Samana against respondent No.2,

but, he was acquitted as the prosecution witnesses turned hostile. Subsequently, on the aforesaid allegations, FIR No.106 dated 27.6.2012, under Sections 302,366,376(2)(G),120-B IPC was registered at Police Station City Samana. Investigation was commenced. Respondent No.2 was arrested. On completion of investigation, final report under Section 173 Cr.P.C was presented to the Area Magistrate. After complying with the provisions of Section 207 Cr.P.C, the Area Magistrate committed the case to the Court of Sessions.

Respondent No.2 was charge sheeted under Sections 306 and 376 IPC to which he pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined as many as fourteen witnesses and tendered documents Ex.PX/1 to Ex.PX/6. Statement of respondent No.2 was recorded under Section 313 Cr.P.C. putting him the entire incriminating evidence brought on record against him to which he denied and pleaded innocence. In defence, respondent No.2 tendered documents Ex.D1 to Ex.D8.

The trial Court after analysing the evidence, found that the statements of the prosecution witnesses lack credence and unreliable. Accordingly, it acquitted respondent No.2 vide impugned judgment dated 6.4.2013.

Learned counsel for the appellant submits that respondent No.2 failed to fulfil his promise to the deceased

(Reena Devi @ Reena Rani) that he would marry her, which forced her to take the extreme step of committing suicide. The death of deceased had occurred due to consumption of some poisonous substance. According to the report of Chemical Examiner, spermatozoa was found on her vaginal swab, which clearly shows that respondent No.2 had committed sexual intercourse with her. It was a foolproof case for recording conviction of respondent No.2 and thus, he has wrongly been acquitted by the learned trial Court.

After giving thoughtful consideration to the submissions made by learned counsel for the appellant and going through the record, we find no merit in the present appeal and the same is liable to be dismissed for the reasons to follow.

It is evident that there are two versions coming from the mouth of complainant (Appellant No.1) and his daughter namely Harpreet Kaur @ Charno. Initially, when the statement (Ex.DA) of appellant No.1 was recorded, he made no allegations of rape and/or abetment to suicide against respondent No.2. He rather spoke that there was love affair of his deceased daughter with respondent No.2, who was already married. His deceased daughter met respondent No.2 and compelled him to elope with her, but on 14.6.2010 when he refused to do so, his daughter consumed poison. None could be blamed for her death. Whereupon, proceedings under Section 175 Cr.P.C. were initiated. It is pertinent to mention here that the said

statement-Ex.DA was also signed and endorsed by the daughter of the complainant namely Harpreet Kaur, PW5.

The reason for roping respondent No.2 in the alleged crime was that when appellant No.1 approached this Court, directions were issued to the Senior Superintendent of Police, Patiala, to take necessary steps and look into the matter which culminated into registration of FIR. During the course of inquiry Ex.P4/A, it transpired that the deceased had illicit relations with respondent No.2, a married person. When this fact came to the notice of the family of respondent No.2, his family members had approached appellant No.1, complaining about the conduct of deceased, whereupon, he had lambasted his daughter, who was willing to marry respondent No.2, but he refused to do so, which resulted into consuming of poisonous substance by the deceased.

It has nowhere come on record that respondent No.2 had ever committed sexual intercourse with the deceased daughter of appellant No.1. Even if it is assumed that respondent No.2 had sexual intercourse with the deceased, still it does not attract the offence under Section 376 IPC, inasmuch as, the same was consensual in nature and the deceased was major being 24 years of age.

The alleged occurrence took place on 14.06.2010 when the deceased did not return home. However, the FIR was registered on 27.06.2012 on the directions by this Court to the

concerned police authorities. During this period of two years, the complainant-appellant No.1, after due deliberations and consultations had prepared a concocted story of rape and suicide which is not corroborated by any evidence on record.

The complainant-appellant No.1 also concealed the fact from the court that accused-respondent No.2 was related to his family. Men may speak lies, but circumstances do not. When the complainant-appellant No.1 was confronted with some marriage photographs, he had to admit under forced circumstances that his niece was married to brother of respondent No.2. It goes to show that the prosecution did not come with clean hands.

As regards the evidence of Jarnail Singh, PW2, a star witness, it has come on record that he had protracted litigation with the father of respondent No.2 and against his own brother. Therefore, Jarnail Singh PW2 cannot be said to be an independent witness. Moreover, the statement given by him does not give any concrete evidence to form an opinion in favour of the prosecution case. He has simply stated that in the morning of 15.06.2010, while going to his fields, he had seen accused along with one other person coming in a jeep with a lady. It is not clear from his statement, as to who was that lady and where she had come from. This in no way helps the prosecution case. Rather the factum of civil litigation involving

Jarnail Singh and father of accused/respondent No.2 indicates that he was an interested witness.

In view of the aforesaid discussion, we find no merit in the appeal. Accordingly, it is dismissed.

(T.P.S.MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

February 15, 2016
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