

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRA-S-891-SB-2004 (O&M)

Date of Decision: 25.05.2016

Kamaljit Kaur

...Appellant(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

Present: Mr. Satish Goel, Advocate
for the appellant.

Mr. K.S. Aulakh, AAG, Punjab.

ANITA CHAUDHRY, J.

The appellant was convicted under Section 366/120-B IPC and Section 376/120-B IPC. She was sentenced to undergo rigorous imprisonment for a period of 10 years along with fine of Rs.1,000/- under both the Sections. In default of payment of fine, she was to further undergo rigorous imprisonment for a period of 6 months and the sentence on each count was to run concurrently.

It is necessary to give few facts. Santokh Singh, father of the prosecutrix lodged a complaint with the police that his daughter a student of B.A. 2nd year had gone to the college on 08.02.2001 but had not returned. They waited for her till evening and made inquiries from the relatives and friends. The complainant had mentioned that

Lakhwinder Singh, Balwant Singh and Raj Kaur were tenants in their house and had taken one room and a kitchen on rent in February, 2000. Jangir Kaur, mother of Lakhwinder used to visit them. After some time they had learnt that the family was not good and they were of suspicious character, they made enquiries about them and their fears were affirmed. Allegations were levelled that Lakhwinder Singh had kidnapped his daughter.

On the basis of the complaint, the FIR was registered and investigations were started. After about four months, the police got some clues and recovered the victim from a house. The recovery of girl was effected on 27.06.2001. The victim was sent for her medical examination. Her statement under Section 164 Cr.P.C. was recorded. The police could arrest only Kamaljit Kaur and Jangir Kaur. The remaining persons named by the prosecutrix were declared proclaimed offenders.

The prosecution examined the complainant, the victim, the Medical Officers and the Police Officers and held Kamaljit Kaur and Jangir Kaur guilty. Jangir Kaur was the mother of Lakhwinder, who was the main accused, against whom the allegations of rape were levelled while Kamaljit Kaur was said to be the landlady in whose house the victim had been confined.

A separate appeal was filed by Jagir Kaur, but it has been reported that she had died. That appeal had abated.

I have heard the counsel of both the sides.

The counsel for the appellant had urged that the complaint

was silent so far as the role of appellant Kamaljit Kaur was concerned

and we have only the statement of the victim and if her statement is seen, then there is absolutely no evidence against the appellant and the only role assigned to her is that the girl was taken to Bhawanigarh to the house of Kamaljit Kaur and the victim was confined in her house and she was beaten by Raj Kaur, Lakhwinder Singh and Kamaljit Kaur. It was urged that Lakhwinder's family was a tenant in that house and the police has not even prepared the site plan of that house and the victim has stated that she did not know the family members of Kamaljit Kaur and she has been roped in only because she was the landlady. It was urged that the girl was major and she had lived with Lakhwinder for almost five months and it was a case of consent.

The State counsel supported the judgment and urged that the victim had spoken about the role played by Kamaljit Kaur and she was beaten up by all of them including the appellant.

The victim was over 18 years of age. She was studying in Khalsa College and was pursuing her B.A. According to her, she had gone to take notes from her teacher. She could not meet him and was returning home when Lakhwinder Singh met her who was a tenant in their house. The prosecutrix had stated that Lakhwinder Singh was with his brother and his brother's wife and was riding a scooter. She stated that on seeing her, he stopped his scooter and took out a knife and asked her to sit on his scooter and threatened that in case she raised alarm he would eliminate her and her family. Due to fear she sat on his scooter. He took her to village Raipur Mandlan where Jangir Kaur, mother of Lakhwinder met them. She stated that Lakhwinder took his mother side and spoke to her and Jangir Kaur left the house

and then she and Lakhwinder were alone in the house and she was raped by Lakhwinder. She stated that Jangir Kaur returned after a while and she made her understand that she should accept what had happened and asked her to marry Lakhwinder and she refused. She stated that in the evening she took her to Bhawanigarh at 8:00 PM to the house of Kamaljit Kaur and she was raped again. Two days later Jangir Kaur and Balwant Singh came to Bhawanigarh and asked her to marry Lakhwinder Singh and pressurized her. The entire statement made by the prosecutrix revolves around the role of Lakhwinder Singh.

A perusal of the testimony shows that the prosecutrix was travelling with Lakhwinder Singh to different places on the scooter. She had also stated that she was confined in a room. There was one or the other accused who were keeping watch on her and they did not allow her to come out. She stated that she was trying to make a telephone call but was beaten. She admitted that she had travelled on scooter for about 1 to 2 hours.

The only role attributed to the appellant was that she was confined in the house owned by Kamaljit Kaur. It is difficult to accept the statement of the victim that Kamaljit Kaur had joined hands with other accused or had beaten her up. It appears to be a case which has not been investigated properly. There were other people in the house and in the locality whose statements were not taken. The police had arrested/implicated several members of the same family and also the landlady in the case whose involvement is not found. The statement of the prosecutrix is not convincing either.

As there is no evidence against the appellant, the appeal is accepted. The appellant is acquitted of the charges. Her bail bonds are discharged.

(ANITA CHAUDHRY)
JUDGE

25.05.2016
sunil