

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

CRA-S-4047-SB-2015 (O&M)

Date of Decision: 01.09.2016

Memta

...Appellant(s)

Versus

State of Haryana and another

...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. Ashok Aggarwal, Advocate
for the appellant.

ANITA CHAUDHRY, J.

This is appeal is against the acquittal recorded by the trial Court.

Few facts are necessary. The complainant is a 70 year old woman. The allegations levelled by her were that she had gone to a ration shop on 14.04.2014 at about 10:00 AM. The depot holder was the Numberdar of the village. He took the complainant inside the house on the pretext of giving her ration and teased her and attempted to commit rape. He tore her clothes and with great difficulty she returned home. The complainant returned to her brother's house in Uttar Pradesh and from there she returned on 19.04.2014 and then reported the matter to the police. Her medical was got done and the case was registered.

The accused was arrested and challan was presented.

Charge was framed under Section 354-A & 354-B read with Section 511 and 323 IPC.

The trial Court acquitted the accused as it found major contradictions and holes in the story. It noted that there was a delay of five days in lodging the FIR and at the trial she had made improvements. It also noted that she had appeared before the Deputy Commissioner in respect of the complaint of a ration depot on 18.04.2014 and her photograph had appeared in one of the newspapers and a false statement had been made that she had returned to her village only on 19.04.2014. It found that there was no injury.

I have heard the counsel for the appellant and with his assistance, have gone through the record. I find no merit in the appeal.

The incident had taken place at 10:00 AM on 14.04.2014. The complainant was 70 years old. The incident was not narrated to any member of the family though the petitioner has grown up sons. The complainant left for her brother's place in Uttar Pradesh. She states that she returned on 19.04.2014 and reported the incident to the police. The defence had led evidence to show that the complainant had attended Ram Katha in Panipat and there was a news reported in the newspaper on 19.04.2014, meaning thereby that she was present in Panipat even on 18.04.2014. The complainant had given an affidavit on 28.04.2014 that she had got a false case registered against the petitioner.

At the trial, the prosecution examined the complainant and two other witnesses. PW-2 Kiran stated that the complainant had narrated the incident to her and her clothes were found torn and complainant left for her brother's house as her mother was ill and it is on her request that the case was registered.

Memta in her statement had stated that after the incident she had raised a uproar and many neighbours came there which included Dharamvir, Sunder and Sheedu Lohar. The names of these three persons were not recorded in the FIR or in the statement made under Section 164 Cr.P.C. The complainant examined Kamlesh and Saroj who made similar statements that they found her weeping outside the shop. She had narrated the incident to them and thereafter they left and went to the house of the Sarpanch.

The FIR had been registered after five days but neither in the complaint nor in the statement recorded under Section 164 Cr.P.C. there was any reference to the visit made to the house of the Sarpanch. The trial Court had rightly doubted the story. The introduction of the witnesses is at the later stages. The trial Court in para no.28 of the judgment had elaborately dealt with the contradictions in the two statements made by the complainant which are glaring and therefore, were doubted. The complainant could not explain as to why she had given an affidavit in favour of the accused after the registration of the FIR. The delay was not explained. I find no infirmity in the findings recorded by the trial Court.

The appeal is dismissed.

(ANITA CHAUDHRY)
JUDGE

01.09.2016
sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No