

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

Criminal Misc. No.A-59-MA of 2016

Date of Decision : February 16, 2016

Jagsir Singh

.....Applicant

VERSUS

Sukhdev Singh and others

.....Respondents

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

Present : Mr. B.S. Saroha, Advocate
for the applicant.

T.P.S. MANN, J.

Applicant-Jagsir Singh, who is father of the prosecutrix and, thus, a 'victim' as defined under Section 2(wa) of the Code of Criminal Procedure has filed the present application under Section 378(3) read with Sections 372 and 377 Cr.P.C. for challenging the judgment dated 24.11.2015 passed by learned Sessions Judge, Ferozepur.

In brief, the prosecution case is that on 27.6.2014, the appellant made a statement before the police that he had two sons and two daughters. The prosecutrix, who is his daughter, was minor. In the month of February, 2014, she left the house and returned home after two days. Later on, the appellant learnt

that the prosecutrix was taken away by Sukhdev Singh accused in connivance with Angrej Singh and Sukhchain Singh accused. The matter was, however, settled with the intervention of the Panchayat. Despite the same, the prosecutrix again left the house during night intervening 20/21.5.2014. The appellant tried to locate her at his own level at the places of his relatives but to no effect. He suspected the involvement of Sukhdev Singh accused in kidnapping the prosecutrix in order to solemnize marriage with her and Angrej Singh, Sukhchain Singh and Gurnam Kaur had connived with him in that regard. During the investigation of the case, Avtar Singh and Bikkar Singh were also nominated as accused. Upon completion of investigation, charges under Sections 120-B/363/366-A/376 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 were framed against them, to which they pleaded not guilty and claimed trial.

The trial of the case ended with the acquittal of Avtar Singh, Bikkar Singh, Angrej Singh, Sukhchain Singh and Gurnam Kaur accused of the charges against them. However, Sukhdev Singh accused was held guilty under Section 4 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.5,000/- and in default of payment of fine, to further undergo rigorous imprisonment for three months.

Learned counsel for the applicant has submitted that

Avtar Singh and Bikkar Singh accused were also party to the conspiracy, pursuant to which the prosecutrix was kidnapped and subjected to penetrative sexual assault. However, the names of Avtar Singh and Bikkar Singh accused were not stated by applicant Jagsir Singh as well as by the prosecutrix. According to the prosecution, both Avtar Singh and Bikkar Singh accused were nominated on the basis of statements of Mohinder Singh and Gurdial Singh but said Mohinder Singh and Gurdial Singh have also not been examined by the prosecution at the trial of the case.

Learned counsel for the applicant has further submitted that Angrej Singh, Sukhchain Singh and Gurnam Kaur accused had hatched a conspiracy with Sukhdev Singh accused and pursuant thereto Sukhdev Singh accused had kidnapped the prosecutrix. However, the applicant during his cross-examination denied the fact that he had told the police about kidnapping of his daughter by the said accused. He was confronted with his statement made earlier to the police wherein such fact had been mentioned. Even the investigating officer deposed that the applicant had got recorded the names of Angrej Singh, Sukhchain Singh and Gurnam Kaur on the basis of suspicion. Further, according to the applicant, his son Harnam Singh had informed him about Angrej Singh, Sukhchain Singh and Gurnam Kaur, alongwith Sukhdev Singh having taken the prosecutrix. However, no such mention was made by the

applicant while lodging the FIR. Moreover, Harnek Singh, who had apprised the applicant about the involvement of Angrej Singh, Sukhchain Singh and Gurnam Kaur, has not been examined by the prosecution during the course of trial.

In view of the above, no case is made out for any interference in the impugned judgment to the extent of acquitting Avtar Singh, Bikkar Singh, Angrej Singh, Sukhchain Singh and Gurnam Kaur of the charges against them.

Learned counsel for the applicant has submitted that the sentence of imprisonment of Sukhdev Singh accused is highly inadequate. Further, the applicant and his daughter, i.e. the prosecutrix, be awarded compensation.

Proviso to Section 372 Cr.P.C. does not give right of appeal to the victim to seek enhancement of sentence of imprisonment of the convict or for grant of compensation. On the other hand, the right of appeal granted to the victim is only against the acquittal of the accused or conviction of the accused for a lesser offence or for enhancement of compensation. Right to seek enhancement of sentence of imprisonment vests only with the State under Section 377 Cr.P.C. Further in case the applicant and victim had been granted some compensation, they could very well agitate before this Court that the same was inadequate and liable to be enhanced. However, as no such compensation has been awarded by the trial Court, the

applicant cannot ask for grant of compensation.

In view of the above, no case is made out for any interference in the impugned judgment passed by the trial Court.

The application is without any merit and, therefore, dismissed.

Leave to appeal is declined.

**(T.P.S. MANN)
JUDGE**

February 16, 2016
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**(RAMENDRA JAIN)
JUDGE**