

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

**Crl. Revn. No. 2931 of 2009 (O&M)**

**Date of decision : 25.05.2016**

**Santokh Singh**

**.....Petitioner(s)**

**Versus**

**State of Punjab and another**

**...Respondent(s)**

**CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY**

Present: Ms. Aditi Girdhar, Advocate (Amicus Curiae)  
for the petitioner.

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

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**ANITA CHAUDHRY, J.**

There was no appearance for the petitioner. Therefore Ms. Aditi Girdhar, Advocate present in the Court was appointed as Amicus Curiae to assist the Court. Copy of complete set of paper book was provided to her and some time was given to enable her to prepare the case.

Mr. K.S. Aulakh, AAG, Punjab, accepts notice on behalf of the State.

**CRM No.56965 of 2009**

For the reasons set out in the application, same is allowed as prayed for and delay of 154 days in filing the appeal is condoned.

**Crl. Revn. No. 2931 of 2009**

The instant revision has been preferred by the complainant against the acquittal of Lakhwinder Singh and Raj Kaur in FIR No. 74

dated 14.02.2001, registered under Sections 376, 363, 366, 323, 120-B IPC, Police Station Civil Lines, Patiala, District Patiala.

A connected appeal arising out of the same FIR was fixed today and has been allowed.

Santokh Singh had got an FIR registered as his daughter was missing. She had not returned from college. Lakhwinder Singh, Raj Kaur and Balwant Singh had taken a room on rent in the house of the complainant and were missing. The complainant suspected that Lakhwinder Singh had kidnapped his daughter. The police registered the FIR and could not arrest any of the accused. Four months later, the prosecutrix was recovered. Her statement was recorded and she accused Lakhwinder Singh of rape and illegal confinement. Allegations were also levelled against Jangir Kaur, Raj Kaur, Kamaljit Kaur and some others.

The challan was presented against Jangir Kaur and Kamaljit Kaur, who were convicted.

Lakhwinder and Raj Kaur could not be arrested and they were declared proclaimed offenders. Later on both of them were arrested and a separate challan was presented. Charge was framed under Section 376, 366 IPC against Lakhwinder while charge under Section 120-B IPC was framed against Raj Kaur.

The prosecution examined the prosecutrix, her father, the Medical Officers and the Police Officers.

Lakhwinder took the plea that it was a case of consent and the girl had willingly accompanied him and later she had made a statement against him.

The trial Court noted that though the incident was of 08.02.2001 but the FIR had been lodged on 14.02.2001 and there was a delay of 6 days, which had not been explained. It noted that the statement of the prosecutrix was recorded on 29.06.2001 though she had been recovered on 27.06.2001. It also noted that the girl had travelled frequently on the scooter with Lakhwinder and had stayed with him for 4½ months at different places and therefore, it found it difficult to accept the version of the prosecutrix that she had been raped. It also noted that the girl had made several improvements in her statement made in the Court and rejected her testimony and acquitted the accused.

It is clearly a case of consent. The girl had been moving around with the boy and had lived with him for 4½ months. The girl was major. She was not travelling in a car but on a two wheeler and had stayed in different houses as tenant. The girl had more than one opportunity to reach out and ask for help. The victim did not try to run away. The medical examination showed that no force was used on her and her statement was rightly rejected by the trial Court. There is no reason to take a different view.

The revision is dismissed.

25.05.2016  
sunil

**(ANITA CHAUDHRY)**  
**JUDGE**