

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

**CRR No.2273 of 2016 (O&M)
Date of decision: 01.08.2016**

Zafar Alam

.....Petitioner

Versus

The State of Haryana

.....Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Raj Kumar Rana, Advocate,
for the petitioner.

Ritu Bahri, J.

This petition has been filed against the judgment dated 31.05.2016 passed by the Additional Sessions Judge, Ambala, dismissing the appeal filed by accused-petitioner, Zafar Alam, against the judgment of conviction and order of sentence dated 20.08.2015 passed by the Judicial Magistrate Ist Class, Ambala, whereby he has been sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/- for commission of offence under Section 354 IPC.

A complaint was made to the police by the prosecutrix, who is daughter of Madan Lal, to the effect that on 26.04.2013, after college hours, she was coming to her home by bus. At about 5.00 P.M., she alighted from the bus at Naraingarh turn and started going towards her house, which is situated at Jaggi Colony. When she had gone up to 15/20 paces, one boy

(petitioner) came in front of her and started molesting her by touching her

breast. She shouted and ran towards Police Post. One Dinesh Manchanda, who was standing outside the Police Post, came forward to rescue her. Police party also came there and on seeing the police, the accused-petitioner tried to run towards Jaggi Colony, but was apprehended by the police party. On enquiry, he disclosed his name as Zafar Alam son of Chaman Ali. Thereafter, ruqa was sent to the police station, on the basis of which, FIR under Sections 341, 354-A and 509 IPC was registered. During investigation, Section 354-A IPC was replaced with Section 354 IPC. On completion of investigation, challan was prepared and presented in the Court.

Copies of challan and other documents were supplied to the accused-petitioner free of costs, as envisaged under Section 207 Cr.P.C. Thereafter, finding a prima facie case, charges under Sections 341, 354 and 506 IPC were framed against the accused-petitioner, to which, he pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined the prosecutrix (PW-1), Dinesh Manchanda (PW-2), ASI Raj Pal (PW-3), Retired SI Som Nath (PW-4), Retired SI Randhir Singh (PW-5) and Constable Randhir Singh (PW-6). On conclusion of the prosecution evidence, statement of the accused-petitioner under Section 313 Cr. P.C. was recorded, wherein entire incriminating evidence was put to him. However, he denied the same and pleaded innocence. He did not lead any evidence in defence.

Trial Court, after going through the evidence led by the prosecution, convicted and sentence the accused-petitioner under Section 354 IPC in the aforesaid terms. However, he has been acquitted of the

charges framed under Sections 341 and 506 IPC.

Heard.

The prosecutrix while appearing as PW-1 had specifically deposed that she was residing in House No.100, Phase-1, Jaggi Colony as a Paying Guest (PG). On 26.04.2013, after college hours, when she alighted from the bus at Naraingarh turn and had covered a distance of about 15/20 paces at about 5.00 P.M., suddenly a boy (petitioner) came in front of her and started molesting her by touching her breasts. She shouted loudly and ran towards the Police Post and disclosed the incident to one Dinesh Manchanda, who was standing outside the Police Post. Thereafter, police also reached there and chased the boy, who ran towards Jaggi Colony. She identified the accused-petitioner in the Court. She also identified her signatures on her statement, Ex.PA, given to the police.

ASI Raj Pal (PW-3) deposed that on the date of occurrence, he was posted in Police Post, Baldev Nagar. C-1 Rahul Kumar and In-charge Randhir Singh were also present there. On hearing shouts of a girl, they went towards Railway Line, Phase-I, Jaggi Colony and found one Davinder Singh Manchanda and the prosecutrix standing there. The prosecutrix disclosed that a young boy had molested her on the way by touching her breasts. After recording her statement, ruqa was sent to the Police Station through C-1 Rahul Kumar. He identified the accused-petitioner in Court, who was apprehended by them and deposed that the spot was inspected by the Investigating Officer.

SI (retired) Randhir Singh (PW-5) proved the statement of prosecutrix Ex.PA and endorsement as Ex.PW5/A made by him. He further deposed that the same was sent to police station through Constable Rahul

Kumar for registration of a case, on the basis of which, ASI Som Nath registered the present case.

While dismissing the appeal of appellant-petitioner, the appellate Court has observed that both the witnesses namely ASI Raj Pal (PW-3) and Randhir Singh (PW-5) were cross-examined at length, but learned defence counsel failed to bring out anything from them, on the basis of which, their testimony could be disbelieved. The accused-appellant while recording his statement under Section 313 Cr.P.C., has merely denied the material put forth before him. He has not given any reason for false implication on the part of the prosecutrix. Constable Randhir Singh (PW-6) had stated that on 26.04.2013, he was posted at Police Station, Baldev Nagar and the special report was carried by him intact. In his cross-examination, he stated that at about 6.30 P.M., SI Som Nath had handed over the special report to him and he had handed over the same to the Reader sitting at residence of the Superintendent of Police. Thereafter, he had gone to the residence of DSP at 9.20 P.M.

Learned counsel for the petitioner has argued that the sole eye witness of the occurrence namely, Dinesh Manchanda (PW-2) was declared hostile and hence, in the absence of any eye witness account, the prosecution version becomes doubtful.

This argument of learned counsel for the petitioner is liable to be rejected because the accused-petitioner had been apprehended immediately after the occurrence when the prosecutrix raised a noise. Moreover, the deposition of SI Randhir Singh (PW-5) was to the effect that after hearing shouts of the girl, he had run towards the Railway line, where one Dinesh Manchanda was also present. He identified the accused-petitioner and also

stated that he was apprehended about 15-20 steps from the spot.

After going through the impugned judgments, this Court is of the view that the evidence led by the prosecution have been correctly appreciated by both the Courts below while convicting the petitioner and no ground is made out to interfere therein.

Dismissed.

01.08.2016
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No