

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

Crl. Revision No. 3460 of 2015 (O&M)

Date of Decision: 18.01.2016

Rakesh Kumar

.. Petitioner

Vs.

State of Haryana

.. Respondent

and

Crl. Revision No. 3967 of 2015 (O&M)

Kuldeep

.. Petitioner

Vs.

State of Haryana

.. Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present:- Mr. R.A. Sheoran, Advocate
for the petitioners.**

Ms. Vibha Dhiman, AAG Haryana.

ANITA CHAUDHRY, J.

The instant revision petitions have been preferred against the judgment of conviction and order of sentence recorded by the Courts below.

FIR No. 184 dated 06.08.2010 was registered under Section 354 read with Section 34 IPC at Police Station Badhra, on the complaint made by the victim, wherein she had stated that on 01.08.2010 she boarded a jeep. On the way both the accused tried to outrage her modesty. She cried for help and was saved

by labourers working in the nearby fields. She disclosed that she came to know the name of one accused as Rakesh son of Rajender and the accused put pressure to compromise the matter. At last, the complaint was filed and the case was registered.

Charge under Section 354 read with Section 34 IPC was framed. During trial the prosecution examined four witnesses, including the victim, her husband and the investigating officer.

Though, the case of the accused was of denial, but the trial Court, on appraisal of the evidence on record, vide judgment and order dated 05.10.2013 and 07.10.2013 convicted and sentenced the petitioners to rigorous imprisonment for two years along with a fine of Rs.2000/- under Section 354 IPC. In default of payment of fine, the accused were directed to undergo simple imprisonment for six months. It was directed that the fine amount would be paid to the victim as compensation.

Dis-satisfied with the same, the accused preferred separate appeals challenging the conviction and sentence.

The Appellate Court below dismissed both appeals filed by the accused vide common judgment dated 24.07.2015.

Aggrieved with the same, the accused have preferred the instant petitions.

I have heard learned counsel for the parties and have gone through the paper-book carefully.

Learned counsel for the petitioners had urged that

there was inordinate and unexplained delay in lodging the FIR. The occurrence took place on 01.08.2010 while the FIR was registered on 06.08.2010. He had further urged that no test identification parade was conducted in this case and the vehicle number boarded by the victim was different from one which was recovered by the police. Lastly it was urged that there was no independent corroboration to the testimony of the victim and her statement was full of contradictions.

Learned State counsel supported the judgments rendered by the Courts below.

The occurrence took place on 01.08.2010. The complaint was filed on 06.08.2010. It was mentioned in the complaint that the accused had put pressure for compromise. While appearing in the witness box as PW3, the victim and her husband (PW2) deposed that initially Panchayat was convened in the village. It is apparent that the issue was deliberated before the Panchayat and thereafter the complaint was filed. It is of common knowledge that the rural people prefer to sort out the issue in the village itself. When it could not be sorted out, the matter was reported to the police. No suggestion was given to the witnesses that the Panchayat was not convened. The reason for delay in lodging the FIR was proper and reasonable. It cannot be said to be a case of mistaken identity. The name of the accused Rakesh was mentioned in the complaint. The victim while appearing in the witness-box specifically identified both the accused. No ill-will or motive was alleged or suggested against

the victim for falsely implicating them. In that view of the matter, the discrepancy in the registration number of the vehicle loses its significance. The labourers who came to the rescue of the victim showed their helplessness to become witnesses as they were of the same village as that of accused. Their non-examination cannot be said to be fatal, especially when the testimony of victim was found reliable by the Courts below. It is settled that conviction can be recorded on the sole testimony of victim of such offence if the same is found to be trustworthy. There is no reason to interfere with the concurrent findings recorded by the Courts below. It is well settled that there is a limited scope of interference while exercising revisional jurisdiction. Re-appraisal of evidence is not permitted save in case of manifest error. The findings recorded by the Courts below are neither illegal nor perverse.

Faced with the situation, it was contended by learned counsel for the petitioners that the occurrence took place in the year 2010 and the petitioners have undergone the agony of a protracted trial for five years. He further submits that the petitioners are in custody for about six months. He further submits that the petitioners are first offenders and during all these years they have not indulged in any similar offence.

In view of the circumstances appearing in this case, it will be appropriate if the sentence of the petitioners is reduced to the one already undergone by them. Ordered accordingly. The sentence of fine is maintained. Fine is stated to have been

deposited by the petitioners. The petitioners be set at liberty forthwith in this case, if not required in any other case.

With the above modification, the instant revision petition stands disposed of.

January 18, 2016
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(ANITA CHAUDHRY)
JUDGE