

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.889 of 2016 (O&M)
Date of decision: 30.5.2016

Ravinder and another

.....Petitioners

versus

Ram Niwas and another

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Sumit Sangwan, Advocate for the petitioners
Mr.Satish Saini, DAG Haryana

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Impugned in the present revision is the order dated 27.1.2016, passed by learned Additional Sessions Judge, Bhiwani, vide which, the judgment of acquittal, passed by learned Judicial Magistrate 1st Class, Charkhi Dadri dated 23.8.2013 was reversed and the present petitioners were convicted under Section 377 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for three years each and fine of Rs.1500/- each, in default thereof, simple imprisonment for one month.

I have heard learned counsel for the parties and have carefully gone through the file.

It comes out that according to the prosecution case on

4.12.2016, at about 10.00 pm, both the petitioners took away the victim Mr.R (identity withheld) to the fields, assaulted him and after giving him beating with a beer bottle, committed carnal intercourse against the course of nature and thereafter ran away. The judgments of both the Courts below show that the victim in this case supported the prosecution case and affirmed that he was subjected to un-natural intercourse by both the accused. The statement of the doctor shows that when the victim was examined on the next day, two abrasions were found on the anal margins which were red in colour. There was a complaint of pain all over the body.

The plea of the petitioners is that the report of the Forensic science laboratory was not exhibited by the prosecution and not put to him. The doctor in cross-examination states that there was no injury.

I am of the view that if the report of the Forensic science laboratory which is *per-se* admissible was not exhibited and could not be put to the accused, it is lapse on the part of the prosecution, for which, accused could not be extended any benefit. In any case, the report of the laboratory supports the allegations made by the complainant as human semen was found on exhibits and the anal swab as well as on the underwear sent to the laboratory. Since, examination-in-chief of the doctor shows injury on the anal, therefore, the statement of the victim is duly supported by medical evidence, even if report of the laboratory was not tendered into evidence.

It being so, I am of the view that the judgment passed by the learned Magistrate was perverse and was rightly reversed by learned Additional Sessions Judge, Bhiwani and there is no ground to interfere in the same.

Learned counsel for the petitioners pleads for leniency in

sentence. Keeping in view that two persons committed un-natural offence with the victim, there is no ground to reduce the sentence as well.

The revision petition stands dismissed.

30.05.2016

gk

(Kuldip Singh)
Judge