

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

CRA-S-535-SB-2008

Date of decision: 07.10.2017

Krishan Pal

.....Appellant

Versus

State of Punjab

.....Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Aman Dhir, Advocate/Legal Aid Counsel,
for the appellant.

Mr. C.L. Panwar, Senior DAG, Punjab.

Ritu Bahri, J.

This appeal has been filed against the judgment dated 25.01.2008 passed by the Sessions Judge, Faridkot, whereby accused-appellant (Krishan Pal) has been convicted and sentenced to undergo rigorous imprisonment for a period of five year and to pay a fine of Rs.5000/- for commission of an offence punishable under Section 376 read with Section 511 IPC.

Brief facts of the case are that on 05.09.2007, complainant-Sukhjiti Kaur (mother of minor Jaspinder Kaur) got recorded her statement with ASI Pawan Kumar to the effect that she had two daughters namely Jaspreet Kaur and Jaspinder Kaur and one son namely Jasvir Singh. Her younger daughter Jaspinder Kaur was aged about 8 years. On 03.09.2007, at about 6.30 P.M., Jaspinder Kaur along with her younger brother Jasvir Singh had gone to the market to buy some vegetables. However, they did not turn up till 7.15 P.M. Upon this, complainant-Sukhjiti Kaur went in search of her children. When she reached near the Fertilizer Manufacturing Factory, Kotkapura, her son was found standing there. He was weeping in front of the gate of said factory and told the complainant that Jaspinder Kaur was inside the factory. Thereafter,

the complainant knocked the door of the factory, whereupon Krishan Pal, Watchman (accused) opened the door. The complainant had seen that the accused had removed the underwear of her daughter-Jaspinder Kaur. She further informed that accused-appellant had taken Jaspinder Kaur inside the room of the factory and made an attempt to commit rape upon her. Prosecutrix also confirmed this fact. On the next date i.e.04.09.2007, complainant narrated the occurrence to her husband-Sikander Singh. In this background, the FIR was registered. Thereafter, accused-appellant was arrested. On completion of investigation, challan was prepared and presented in the Court of Illaqa Magistrate. Copies of challan and other documents were supplied to the accused-appellant free of costs, as envisaged under Section 207 Cr.P.C. Later on, the case was committed to the Court of Sessions.

Thereafter, finding a prima facie case, charge under Sections 376 read with Section 511 IPC was framed against the accused-appellant, to which, he pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined Sikander Singh, father of prosecutrix (PW-1), Sukhjit Kaur-complainant (PW-2), Dr. Manjit Pal, Civil Hospital, Kotkapura (PW-3), Harpal Singh, Computer Clerk, Municipal Committee, Faridkot (PW-4) and ASI Pawan Kumar, Investigating Officer (PW-5). On conclusion of the prosecution evidence, statement of the accused-appellant under Section 313 Cr. P.C. was recorded, wherein entire incriminating evidence was put to him. However, he denied the same and pleaded false implication. No evidence was led in defence.

Trial Court, after going through the evidence led by the prosecution, convicted and sentence accused-appellant in the aforesaid terms.

While convicting accused-appellant, trial Court accepted the deposition of Sukhjit Kaur-complainant (PW-2), whereby she has stated that

her minor daughter Jaspinder Kaur accompanied by her younger brother Jasvir Singh had gone to the market to buy some vegetables. When she visited the place of occurrence, which was a small factory, and pushed the door of the factory, she found accused-appellant Krishan Pal was making an attempt to commit rape upon her daughter-Jaspinder Kaur by removing her underwear. There was no reason to falsely implicate accused-appellant in this case at the cost of honor of the family. Moreover, in view of the medical report Ex.P2 given by Dr. Manjit Pal (PW-3), accused-appellant was capable of performing sexual intercourse.

After going through the impugned judgment, this Court is of the view that the prosecution has been able to prove its case beyond the shadow of reasonable doubt by leading cogent and convincing evidence that on the date of occurrence i.e. 03.09.2007, at about 7.15 P.M., in the area of City Kotkapura, accused-appellant Krishan Pal had made an attempt to commit rape upon minor girl (prosecutrix). The prosecution version has been fully supported by the deposition of Sukhjot Kaur-complainant (PW-2), who had visited the place of occurrence at that time. Learned counsel for the appellant has not been able to show any evidence, which could be fatal to the case of the prosecution and could be helpful in acquittal of the appellant.

Resultantly, finding no merits, the present appeal is dismissed.

07.10.2017
ajp

(RITU BAHRI)
JUDGE

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