

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRA-S-1391-SB-2006
Date of Decision: 11.11.2017

Darbara Singh ...Appellant

Versus

State of Punjab ...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Abhishek Sharma, Advocate,
for the appellant.

Mr. Rajesh Bhardwaj, Sr. DAG, Punjab.

JAISHREE THAKUR, J. (Oral)

Appellant-Darbara Singh assailed the judgment of conviction dated 22.04.2006 and order of sentence of the even date passed by learned Sessions Judge, Bathinda, whereby he was convicted for committing offence punishable under Section 376 read with 511 and Section 452 of the Indian Penal Code and was sentenced as under:

Under Section 376 read with Section 511 IPC	Rigorous imprisonment for a period of 3-½ years and fine of Rs. 500/- and in default of payment of fine, to further undergo rigorous imprisonment for three months.
Under Section 452 IPC	Rigorous imprisonment for a period of 02 years and fine of Rs. 300/- and in default of payment of fine, to further undergo rigorous imprisonment for two months.

Both the sentences were ordered to run concurrently and the period of detention during the trial and investigation was set off against the

substantive sentence under Section 428 Cr.P.C.

At the very outset, learned counsel for the appellant-accused contended that the appellant was sentenced for a period of 3 ½ years and he has already completed the period of sentence as is evident from his custody certificate dated 04.12.2012. Under these circumstances, he does not want to contest the findings of the learned trial Court recorded on the merits of the case.

Since learned counsel for the appellant does not contest findings of the learned trial Court on merits, therefore, I need not mention the facts of the case in detail. However, briefly, as per prosecution on 16.07.2005, one Pappu Singh s/o Nachhattar Singh r/o village Mehma Sarja got recorded his statement before Inspector Mohinder Kumar, SHO, Police Station Nehianwala to the effect that they are five brothers and sisters. House of his uncle Chhinda Singh adjoins their house. Chhinda Singh has two sons and a daughter and all the family members are residing jointly. On 15.07.2005 at about 8.00 PM, daughter of Chhinda Singh, who was mentally retarded, was present in the house all alone. Darbara Singh s/o Kehar Singh, r/o village Mehma Sarja, on noticing that she was alone in the house, came to the house of Chhinda Singh and started doing vulgar activities with her. He caught hold of the daughter of Chhinda Singh with intention to commit rape upon her and took her to a room. Thereupon, the prosecutrix raised hue and cry, which attracted Pappu Singh at the spot. He saw that Darbara Singh had opened the string of the *Salvar* of the prosecutrix and were trying to commit rape upon her. Jarnail Kaur wife of Gurbax Singh, sister in law of Pappu Singh and Swaran Singh s/o Jeeta Singh also came at the spot and raised lalkara that Darbara Singh be not

allowed to leave. Thereafter, Darbara Singh, after tying the string of his underwear, fled away from the spot. This incident was witnessed by complainant Pappu Singh, Jarnail Kaur and Swaran Singh.

The matter was reported to the police and after investigation, finding a prima facie case, the accused was chargesheeted under Sections 376 read with 511 and 452 of the Indian Penal Code, to which he pleaded not guilty and claimed trial.

After hearing learned counsel for the parties and appraising the entire material and evidence on record, accused Darbara Singh was held guilty by the trial Court for committing offence punishable under Sections 376 read with 511 and 452 of the Indian Penal Code and was sentenced as mentioned in the earlier part of this judgment.

I have heard learned counsel for the appellant as well as learned counsel for the respondent-State besides appraising the entire material on record.

Learned counsel for the appellant-accused contended that the appellant-accused has already completed his sentence and has been released from custody on 02.06.2007 after having been granted the benefit of Special Government Remission for 01 year, 07 months and 14 days. Since the appellant-accused has completed his sentence, therefore, he does not contest the judgment of conviction recorded against the appellant and, however, he prayed that the sentence awarded by the trial Court may be reduced to the one already undergone by the appellant.

As the learned counsel for the appellant-accused did not contest the findings of learned trial Court whereby conviction of appellant was recorded and order of sentence was passed and further as the appellant-

accused has already completed his sentence, therefore, learned counsel for the respondent-State also did not contest the contention of learned counsel for the appellant and prayed for disposal of the matter in accordance with law.

Under these circumstances, when the appellant has already completed his sentence after having been granted Special Government Remission and further as the counsel for the accused-appellant did not choose to contest the judgment of conviction and order on sentence, recorded by the learned trial Court on merits of the case, therefore, I have no hesitation in affirming the same. Accordingly, the judgment of conviction dated 22.04.2006 passed by learned Sessions Judge, Bathinda is maintained, however, sentence awarded to the appellant is reduced to the one already undergone by him, modifying the order on sentence of the even date to this extent.

Appeal stands disposed of.

11.11.2017

Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No