

**IN THE HIGH COURT FOR THE STATES OF PUNJAB &
HARYANA AT CHANDIGARH**

...

Crl. Appeal No. S-1192-SB-2012

Date of Decision: October 28, 2017

Pappu Paswan

...Appellant

VERSUS

State of Punjab

...Respondent

CORAM :HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Tarundeep Kumar, Advocate
for the appellant.

Mr. Arpinder Singh Sidhu, DAG, Punjab

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RITU BAHRI, J. (Oral)

This appeal is directed against the judgment of conviction and the order of sentence dated 28.07.2011 passed by the learned Additional Sessions Judge (Ad hoc), Fast Track Court, Amritsar, whereby appellant was convicted for a period of seven years under Section 376 of the Indian Penal Code (hereinafter referred to as 'the Code') in F.I.R No. 03 dated 06.04.2010, registered at P.S Maqboolpura, Amritsar.

The instant F.I.R was registered against the appellant on the basis of the statement made before the police by the complainant Laxmi alias Pinki on 06.04.2010 wherein she narrated that her parents and two elder brothers are labourers. She is residing with her family for the last about 8-9 month at the above said house. In the same house in the nearby

room Pappu Paswan, accused-tenant is also residing with his family. He is remotely related as Uncle of the complainant. In July, 2009, accused came into the room of the complainant and tried to commit rape upon her. The complainant warned him of his relations with her and not to do the said act. She also resisted but then accused raped her. She started weeping and the accused ran away. Then from July, 2009 to February, 2010, the accused raped her many times. In February, 2010, the accused returned to Bihar but returned after some time and again started same act. Then the complainant disclosed the matter to her mother and father.

On the basis of this statement, a case was registered against the accused and on conclusion of investigation, report under Section 173 Cr.P.C was submitted to the Area Magistrate. After supply of copies under Section 207 Cr.P.C, the case was committed to the Court of Sessions as the offence under Section 376 of the Code was exclusively triable by the Court of Sessions.

The accused was charged under Section 376 of the Code. He did not plead guilty to the charge and claimed trial. In order to prove its case, the prosecution examined Laxmi Kumari @ Pinki (P.W.1), Upinder Paswan (P.W.2), Dr. Sanjiv Kumar Kohli (P.W.3), Dr. Rupam Pasricha (P.W.4), HC Manjit Singh (P.W.5), Rishi Ram (P.W.6), SI Bhagwan Singh (P.W.7).

Statement of the accused-appellant was thereafter recorded under Section 313 of the Code of Criminal Procedure wherein he denied the prosecution allegations and pleaded innocence.

I have heard the learned counsel for the parties and have gone through the records of the case.

In this case the F.I.R has been registered on the statement of the prosecutrix, who supported her statement Ex P1 made before the police . Her statement was corroborated by P.W.2 Upinder Paswan.P.W.3 Dr. Sanjiv Kumar Kohli found accused capable of performing the sexual act. Dr. Rupam Pasricha deposed that the auxillary and public hair of the prosecutrix were present. The aurella was brown in colour. On her vaginal examination, hymen was found torn, non edematous and there was no bleeding.

As per custody certificate dated 28.10.2017, the accused was released on 01.03.2016, after completing the sentence.

The prosecution has been able to prove the guilt of the accused, who raped the prosecutrix from July, 2009 to February, 2010 against her consent and at that time the complainant was minor.

In view of the discussion made above, the present appeal is dismissed.

October 28, 2017.
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No