

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

CRA-S-1761-SB-2011

DECIDED ON: December 02, 2017

TARLOK RAJ @ LALLI

....PETITIONER

VERSUS

STATE OF PUNJAB

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. H.S. Jalak, Advocate,
for the appellant.

Mr. Jasdeep Singh Walia, Sr. DAG, Punjab.

JASPAL SINGH, J.

Disheartened with his conviction and sentence awarded vide judgment and order dated 14.03.2011 passed by Id. Sessions Judge, Hoshiarpur, under Sections 376/511 IPC, in case bearing FIR No.53, dated 22.11.2009, Police Station Gardhiwala, Tarlok Raj @ Lalli has preferred the instant appeal.

2. Appellant-accused was prosecuted to face trial under Section 376/511 IPC on the allegations that on 22.11.2009, he attempted to commit rape on the mentally challenged daughter of PW2 Binder Pal. PW2 stated that on receipt of an information that appellant-accused has entered his house, he reached at his house and spotted appellant-accused in a naked position. On seeing him, appellant-accused succeeded in running away from

his house after scaling over the wall after leaving his trouser and jutti (shoes). After registration of the instant case on the basis of aforesaid statement of PW2 Binder Pal- father of the prosecutrix, ASI conducted the investigation, visited the spot, prepared the rough site plan of the place of occurrence, took into possession one trouser and one pair of Jutti (shoes) and recorded the statements of witnesses. However, the complainant refused to get his daughter medically examined. Accused was arrested and got subjected to medically examined at Civil Hospital, Bhunga. After completion of all formalities, challan was presented in the Court of Illaqa Magistrate.

3. Finding a prima facie case, charges under Section 376 read with Section 511 IPC was framed against accused to which he pleaded not guilty and claimed trial.

4. On the strength of evidence adduced by the prosecution as well as after affording an opportunity to the accused and hearing learned counsel for the parties, appellant-accused was held guilty and convicted under Section 376/511 IPC vide judgment dated 14.03.2011 and sentenced to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.2000/- and in default of payment of fine, to further undergo imprisonment for one month vide order dated 14.03.2011.

5. Aggrieved against his conviction and sentence, appellant-accused has preferred the instant appeal.

6. In response to the notice of motion, learned State counsel appeared and representing the State. Lower court's record was requisitioned and received.

7. At the very outset of the arguments, it has been submitted by learned counsel for the appellant that appellant does not want to challenge his conviction under Section 376/511 IPC. However, he has submitted that a lenient view be taken into the matter of sentence as the appellant-accused has already undergone sufficient long period and is still behind the bars from the date of his conviction.

8. This Court has minutely scanned the judgment of conviction and order of sentence besides going through the evidence available on file led by the prosecution as well as defence. Since, there is no infirmity and illegality in the case of prosecution, this Court is of the considered view that appellant-accused has been rightly convicted and sentenced under Section 376/511 IPC. Accordingly, conviction is upheld and appeal stands dismissed as far as it relates to the conviction of the appellant-accused vide aforesaid judgment.

9. Undisputably, appellant has undergone a considerable period of sentence and he remained behind the bars for a period of one year and 3 months during trial. Similarly, after his conviction, he remained behind the bars for a period of more than two years. Thus, total sentence undergone by him comes out to 3 years and 5 months.

10. Taking into consideration the fact that appellant hails from downtrodden/poor family and has already undergone a period of 3 years and 5 months. Thereafter, he was enlarged on bail and further since his conviction is also under Section 376 with the aid of Section 511 IPC, this Court is of the considered view that a lenient view in the matter of sentence will meet the ends of justice and that the period, for which, he remained

behind the bars is commensurative with the offence complained of.

11. Keeping in view the aforesaid aspects, the instant appeal is dismissed as far as conviction is concerned but with modification in the sentence which stands reduced to the period already undergone i.e. 3 years and 5 months.

12. With the aforesaid modification in the quantum of sentence, the petition stands dismissed.

DECEMBER 02, 2017
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(JASPAL SINGH)
JUDGE

whether speaking/reasoned: **Yes**

whether reportable: **Yes/No**