

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

Criminal Appeal No. S-587-SB of 2013 (O&M)

Date of decision : October 23, 2017

Kirpal Singh @ Pal

.....Appellant

Versus

State of Punjab and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. H.S. Minhas, Advocate
for the applicant-appellant.

Mr. Davinder Bir Singh, DAG, Punjab.

LISA GILL, J.

The present appeal has been preferred by the appellant Kirpal Singh @ Pal, challenging the judgment and order dated 14.02.2013 passed by the learned Additional Sessions Judge, Fatehgarh Sahib, whereby he has been convicted for the offences punishable under Sections 342, 376 and 506 IPC. The appellant has been sentenced to undergo rigorous imprisonment for ten years besides pay a fine of ₹10,000/- for the offence punishable under Section 376 IPC and in default thereof undergo rigorous imprisonment for one year, to undergo rigorous imprisonment for one year besides pay a fine of ₹1,000/- for the offence punishable under Section 342 IPC and in default thereof undergo rigorous imprisonment for one month and to

further undergo rigorous imprisonment for one year besides pay a fine of ₹2,000/- for the offence punishable under Section 506 IPC and in default thereof undergo rigorous imprisonment for two months.

It is to be noted that three persons were named as accused, in this case, i.e. the present applicant-appellant Kirpal Singh @ Pal, his father Satnam Singh and one Bhupinder Singh @ Bhinder. The applicant's father Satnam Singh son of Banta Singh filed a petition under Section 482 Cr.P.C. for quashing of the said complaint against him. This Court on 21.05.2013, quashed the complaint qua Satnam Singh. It is informed that the said decision has attained finality.

Brief facts are that initially, on a statement (Ex. PB) suffered by the complainant/victim on 11.07.2009, FIR No. 73 dated 20.07.2009 for the offences punishable under Sections 354, 342, 506, 34 IPC was registered at Police Station Mulepur. Cancellation of the abovesaid FIR was recommended after investigation. The Special Investigation Team constituted under orders of this Court also found the allegations against the accused to be incorrect and recommended cancellation of the FIR. A complaint dated 24.08.2009 was filed by the victim.

It is relevant to note that the appellant has been convicted on the complaint preferred by the victim.

The victim in her initial statement dated 11.07.2009, stated that she was a student of 10th class at Guru Nanak Public School, Chunni Kalan. She used to go to school in a van and as per her routine

she was waiting for her school van near the crossing (Puli) over the canal at Brass on 09.07.2009 at about 8.00 a.m. The present appellant and Bhupinder Singh, in the meanwhile, arrived in a white Indica car. Bhupinder Singh was driving the car. The appellant suddenly opened the door of the car, caught hold of the victim's arm and forcibly dragged her into the car. The driver Bhupinder Singh drove away at a high speed. Some how her family came to know about this incident. Her grandfather and mother came in pursuit but the accused drove the car even faster and her grandfather could not keep up with the accused. Her grandfather and mother returned home. The accused took the complainant to Sector 17, Chandigarh. It is alleged that the accused made the victim sit in the car and kept roaming around. They insulted her (beizzati kiti) and at about 2 o'clock in the afternoon, they returned to the village and threw her out of the car in front of the school dispensary. The victim's parents approached the appellant's father Satnam Singh. Efforts were made by respectable persons of the area to settle the matter amicably but both the boys did not show any remorse for their wrong doing but to the contrary started threatening the victim and her family. Therefore, action against them was prayed for. FIR No. 73 dated 20.07.2009 for the offences punishable under Sections 354, 342, 506, 34 IPC was registered at Police Station Mulepur on this statement. No allegations attracting the rigours of Section 376 IPC were raised in this statement. Medico legal examination of the victim was conducted on the same day (Ex. PX). Subsequently, statement of

the victim (Ex. DA) was recorded on 20.07.2009.

In her statement (Ex. DA) recorded on 20.07.2009, the victim levelled allegation of commission of rape in the running car by the appellant as well as Bhupinder Singh. It is further alleged that she was threatened not to reveal this incident to her family members otherwise harm would befall her family. The victim stated that she did not reveal about the commission of rape upon her to her family earlier due to such threats meted out by the accused. True facts, it is stated, were revealed by the victim to her family members on 19.07.2009 and consequently her statement (Ex. DA) was recorded on 20.07.2009.

The police investigated the matter and found the allegations to be incorrect, thereby recommended cancellation of the said FIR. However, the victim filed a petition before this Court and a Special Investigation Team was constituted. The said Special Investigation Team on investigation of the matter yet again found the allegations to be incorrect as reflected in its report dated 25.05.2010 (Ex. DE). Cancellation report was again prepared and presented before the learned Judicial Magistrate First Class, Fatehgarh Sahib on 06.07.2010. The victim protested against the same and her statement in this respect was recorded on 05.07.2010. However, in the interregnum private complaint dated 24.08.2009 was filed by the victim specifically stating that the police authorities were not taking action against the accused persons. Accordingly, the learned trial Court ordered the cancellation report to be attached with the private complaint and the matter in the

complaint was proceeded against.

As per the allegations in the complaint dated 24.08.2009, the victim mentioned herself to be a student of class 12 and not 10th as stated by her earlier. It is stated that she was standing on the bridge of the canal at Brass at 8.00 a.m. on 09.07.2009 waiting for her school van as students of class XII had been called to school for extra classes. Allegations of the present appellant dragging her into the Indica car and speeding away of the car by co-accused Bhupinder Singh were reiterated. The following of Indica car of the accused by the victim's grandfather and mother after the victim's grandfather came to know of the abduction was reiterated as well. They could, however, not catch up with the car of the accused, thus, they returned back. The accused allegedly took the victim to Sector 17, Chandigarh. It is further stated that the accused violated the person of the victim, turn by turn, in the running car. She was threatened by the accused not to disclose the incident to anyone and it is due to this fear that the matter was not reported to her parents. It is only after her medical examination at Civil Hospital, Fatehgarh Sahib on 20.07.2009, that her parents came to know regarding the commission of rape, hence, the victim disclosed the facts to them. It is averred that the appellant and the co-accused proclaimed that no action would be taken against them as the present appellant's father was the Chairman of the Block Samiti, Khera and a leader of the ruling party. She further averred in the complaint that the police is deliberately not taking any action against the accused because

of the influence wielded by them.

All the accused were summoned by the learned Judicial Magistrate First Class, Fatehgarh Sahib vide order dated 15.02.2010 for the commission of offences punishable under Sections 354, 342, 363, 376 and 506 IPC. Co-accused Bhupinder Singh was declared a proclaimed offender and the complaint was committed qua the other two accused.

The co-accused Satnam Singh preferred CRM-M No. 2156 of 2011 for quashing of the said complaint against him. This Court on 21.05.2013, quashed the complaint qua Satnam Singh while observing that allegations levelled by the complainant were found to be false, levelled due to party faction in the village and consequently a cancellation report was prepared. It was held that the learned trial Court committed a patent error in summoning Satnam Singh as no allegation was levelled against him constituting the commission of a criminal offence by him. It is informed that the said decision dated 21.05.2013 has attained finality.

Charge sheet against the appellant was framed. Seven witnesses were examined by the prosecution/complainant. The accused in his statement under Section 313 Cr.P.C. denied the incriminating evidence put to him. He pleaded innocence and false implication due to extraneous reasons and political rivalry.

DW1 Inspector Gurmeet Singh was examined in defence.

After closure of the defence evidence, Dr. Usha Singla who had

conducted the examination of the victim on 20.07.2009, was examined as a Court witness on 17.01.2013. Supplementary statement of the accused under Section 313 Cr.P.C. thereafter was recorded as well.

Learned trial Court on considering the facts and circumstances of the case concluded that the prosecution had proved its case beyond reasonable doubt against the appellant and convicted him for the offence punishable under Sections 342, 376 and 506 IPC. The appellant was, however, acquitted of the offence punishable under Section 363 IPC for lack of evidence. He was sentenced as detailed above.

Aggrieved from his conviction and sentence, the appellant has filed this appeal.

Learned counsel for the appellant vehemently argues that the evidence on record does not justify the conviction of the appellant in any manner. First and foremost, there is an unexplained delay in lodging of the FIR. The incident in question is stated to have taken place in the morning of 09.07.2009. It is not probable that in such a situation where the grandfather and the mother of the victim allegedly saw the accused racing away with the victim, they would not have taken immediate and prompt action by informing the police. However, surprisingly, the first complaint was lodged on 11.07.2009 after two days of the said incident. Moreover, there is no allegation of rape in the said statement (Ex.PB) of the victim, which was recorded at the outset.

Medical examination, it is submitted, was deliberately not conducted

on the same day i.e. on 09.07.2009. It is after considerable delay that the victim on 20.07.2009 for the first time raised allegations of commission of rape by the present appellant alongwith Bhupinder Singh.

It is further submitted that the manner in which the offence is stated to have been committed is opposed to all probability. It is not possible that on a busy road, the victim could be taken forcibly in a car, which did not even have tinted/dark glasses and thereafter subjected to rape by two persons taking turns. It is opposed to all reasonableness that the accused would take the victim to Sector 17, Chandigarh and thereafter bring her back at about 2 o'clock in the afternoon and throw her outside the village dispensary. Furthermore, thorough investigation of the case was conducted by the police. The allegations against the appellant were found to be false. Thereafter a Special Investigation Team was constituted under orders of this Court. The said team also recommended cancellation of FIR as the allegations were found to be incorrect on investigation. It is further submitted that Dr. Usha Singla has been wrongly examined as a Court witness after dismissal of the application under Section 311 Cr.P.C. filed by the prosecution on 21.09.2011. The said order dated 21.09.2011 passed by the learned trial Court was duly upheld by this Court in CRR No. 2443 of 2011 on 12.10.2011. The learned trial Court, it is submitted, dismissed the application under Sections 311 Cr.P.C. for proving the medical examination of the victim, which was conducted nine months after the

alleged incident. It was observed that it is not such a piece of evidence, which is necessary for the just adjudication of this case and it would only amount to filling up of lacunae in the prosecution evidence. This Court while dismissing the petition filed by the complainant observed that such medical examination conducted after almost nine months of the alleged rape, would not be a relevant piece of evidence. In this view of the matter, it is contended that the learned trial Court wrongly summoned Dr. Usha Singla as a Court witness vide order dated 14.01.2013 and further placed reliance on her statement for convicting the appellant.

Learned counsel for the appellant further submits that it is proved on record that the victim's school was closed from 09.07.2009 to 12.07.2009 as is evident from the report (Ex. DE) submitted by the Special Investigation Team. It is clearly mentioned therein that as per the Principal of Guru Nanak Public School, Chunni Kalan the school was closed, no school vans were operating in this period and no extra/special classes were being held in the school, neither were any students called for any extra classes. Driver of the van in question also suffered a statement to the same effect before the Special Investigation Team. As per the said report dated 25.05.2010, evidence was present to show that the present appellant and the victim in question were in touch with each other telephonically on 08.07.2009. Evidence of messages being exchanged in the morning of 09.07.2009 was also found. It is mentioned in the report that the grandfather of the victim is an old man,

living in the village ever since, still he was unable to reveal the identity of the person, who allegedly informed him regarding his grand daughter being forcibly taken away by the accused. The victim's grandfather had stated that a person tending to the cows in the area had revealed the above said incident to him. Pursuant thereto, he went back home, took the victim's mother alongwith him and thereafter pursued the car of the accused in which his grand daughter was taken forcibly by the accused. However, he could not keep up with the said car, thus, he along with his daughter-in-law returned home. This version was found to be incorrect.

Learned counsel for the appellant vehemently argues that the entire version is clearly concocted. It is impossible that the grandfather would even be able to tail the car of the accused after having first gone back to his residence and thereafter returned to the spot after collecting his daughter-in-law. Moreover, identity of the person, who informed him, is not revealed neither is there any explanation as to why the grandfather and mother of the victim kept quiet and did not take immediate action for apprehension of the accused. Their conduct is clearly unnatural in the facts and circumstances of the case. It is further submitted that the complaint against Satnam Singh has been quashed by this Court, which indicates that the present case has indeed been registered out of political rivalry.

It is submitted that apart from the improbability of the version set forth at the outset, it is to be noted that the victim never raised any

allegations of commission of rape by the appellant initially. She merely stated that she was insulted by the accused when they took her in the car at 8.00 a.m., then proceeded on to the extremely busy road to Chandigarh, went to Sector 17, Chandigarh and thereafter came back and threw her out of the car at about 2.00 p.m. (afternoon) in front of the dispensary of their village.

Learned counsel for the appellant argues that the possibility of friendly relations between the victim and the appellant in this case and subsequent registration of the case due to political rivalry cannot be ruled out. The victim admittedly major at the time of incident (it is stated that she was 19 years of age at the time of incident) accompanied the appellant out of her own accord, if at all. Medical evidence on record does not prove the commission of any offence punishable under Section 376 IPC by the appellant. It is submitted that the appellant has been wrongly convicted for the offences punishable under Sections 342, 376 and 506 IPC though rightly acquitted of the offence punishable under Section 363 IPC. It is further submitted that once the appellant has been acquitted of the offence punishable under Section 363 IPC, the entire foundation of the prosecution version falls like a house of cards. Therefore, it is prayed that this appeal be allowed and the appellant be acquitted of the charges against him.

Learned counsel for the State refutes the above said arguments and submits that the appellant has been rightly convicted and sentenced for the offences punishable under Sections 342, 376 and

506 IPC vide the well reasoned, logical judgment and order dated 14.02.2013 which is based on the specific evidence on record. It is submitted that the victim, in this case, has supported her version throughout. The accused can be convicted on the sole testimony of the prosecutrix herself without seeking any corroboration once her testimony is found to be trustworthy. In the present case, there is nothing on record to impeach the credibility of the prosecutrix. Medical evidence especially in the shape of the evidence of Dr. Usha Singla corroborates her version. Thus, it is prayed that this appeal be dismissed.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is not in dispute that in respect to the alleged occurrence, which took place on 09.07.2009, FIR No. 73 was registered on 20.07.2009. The police on investigation found allegations against all the accused including the appellant to be incorrect. Thereafter, Special Investigation Team was constituted under the orders of this Court consisting of DSP Fatehgarh Sahib, Incharge, CIA, Sirhind and SHO, PS Mulepur. The Special Investigation Team also found the allegations to be incorrect and a cancellation report in this case was presented before the learned Judicial Magistrate First Class, Fatehgarh Sahib on 06.07.2010. The victim prayed for rejection of the cancellation report and for taking action against the accused. As the private complaint by the victim already stood instituted, learned trial Court ordered that the

cancellation file be attached with the private complaint.

As per allegations in complaint dated 24.08.2009, the complainant/victim was studying in 12th class in Guru Nanak Public School, Chunni Kalan. She was taking extra classes in school during the summer vacations. The victim used to go to school for the extra classes on a school van. According to her daily routine, she was standing on the bridge over the canal at Brass at 8.00 a.m. on 09.07.2009. The present appellant alongwith Bhupinder Singh statedly arrived there in an Indica car. The appellant allegedly dragged the victim into the car forcibly. No one was stated to be present at the bridge at that time. The victim's grandfather and mother came to know about the incident. They followed the car of the accused but were unable to keep up with them. It is stated that the appellant and Bhupinder Singh violated the victim turn by turn in the running car. She was threatened not to disclose the incident to anyone and it is due to fear that the matter was not reported to her parents. It is only after her medical examination was conducted at Civil Hospital, Fatehgarh Sahib that her parents came to know regarding the commission of rape. Hence, the victim herself disclosed the abovesaid fact regarding the commission of rape by the two accused to them. It is stated that the police was pressurising the complainant and her parents to compromise the matter and were not taking any action against the accused, hence the complaint.

The victim (PW2) while testifying before the learned trial

Court stated that she was standing on the bridge of the canal at about 8.00 a.m. on 09.07.2009 while waiting for her school van. She was a student of class XII at Shri Guru Nanak Public School. The appellant arrived at the bridge in an Indica car driven by Bhupinder Singh. It is stated that the appellant pulled the complainant inside the car and Bhupinder Singh drove off the car at a great speed. The complainant's grandfather was stated to be present at a petrol pump situated about two acres away from the place of occurrence. The complainant further stated that someone informed her grandfather, who first went home, picked up her mother and then chased the Indica car in which she was forcibly taken by the appellant and the co-accused. The complainant's grandfather was driving a Ford Ikon car. The complainant stated that she was raped by the appellant and the co-accused Bhupinder Singh turn by turn in the running car. It is stated that she tried to raise a hue and cry but both the accused threatened to kill her family and further threatened her with dire consequences if she informed her parents about the occurrence. The appellant and the other co-accused, it is stated, threw her out of the car at about 2.00 p.m. in front of the dispensary of the village after having taken her around Section 17, Chandigarh in the car. The complainant's mother reached the dispensary and took her home. A threatening call was received by the victim's grandfather. Grandfather, mother and a maternal aunt of the victim went to the police station on 11.07.2009 but FIR was not registered. Application (Ex.PB) was submitted by the complainant.

Political pressure was exerted. The victim's father, a truck driver returned on 18.07.2009, met superior police officials and FIR No. 73 was finally registered on 20.07.2009. Medical examination of the victim was conducted on 20.07.2009. The complainant stated that she revealed about the commission of rape to her father for the first time on 20.07.2009 before she was medically examined.

The victim's grandfather Sardool Singh could not be examined before the learned trial Court as he passed away in the interregnum. However, his statement was recorded at the time of recording of preliminary evidence wherein he stated that the victim was his granddaughter. She was going to school for extra classes as students of the 12th class were called for the same. She was standing on the bridge of the minor canal on 09.07.2009 at 8.00 a.m. for going to school on the school van. He stated that he passed the complainant on the bridge when he was going to get fuel for his car from the petrol pump. The victim at that time was standing at the spot waiting for the van. When he returned, she was not present. People who were gathered there informed that the victim was kidnapped by the appellant and one Bhupinder Singh in their Indica car. Sardool Singh CW2 further stated that he went back home, took the victim's mother alongwith him and thereafter followed the car of the accused, which was being driven by Bhupinder Singh. The appellant was sitting with his granddaughter on the rear seat of the car. The accused sped away and Sardool Singh and his daughter-in-law failed to catch the accused. They returned home. At

about 2.00 p.m. the accused dropped the victim on the road from where she was kidnapped. The matter was reported to the police. The victim was medically examined at Civil Hospital, Fatehgarh Sahib from where they gathered that she had been raped by the appellant and Bhupinder Singh. The factum of rape was disclosed by the victim after her medical examination. It is further stated that the appellant's father Satnam Singh threatened them not to pursue the matter. Due to pressure exerted by Satnam Singh, no action was taken by the police.

PW2 the victim has, however, deposed that she was thrown out of the car at about 2.00 p.m. at the dispensary of the village. PW3, the mother of the victim has reiterated that the victim was standing at the bridge of the minor canal for going to school for extra classes. Father-in-law of PW3 came home and informed her about the kidnapping of the victim. She alongwith her father-in-law chased the Indica car till Landran. Bhupinder Singh was driving the car. Not being able to keep up with the Indica car, they returned to their village. They went to the victim's school at Chunni Kalan but the victim was not found present though other students were present in the school. Thereafter, PW3 alongwith her father-in-law returned home and remained silent for two days. The victim, it is stated was thrown out at about 2.00 p.m. behind the trees near a chowk.

It is a matter of record that the allegations against the accused were found to be incorrect on investigation by the police.

Thereafter, the Special Investigation Team (SIT) constituted under

orders of this Court also found no truth in the allegations against the accused persons. This Court in CRM-M No.2156 of 2011 quashed FIR No. 73 dated 20.07.2009 qua Satnam Singh i.e, the appellant's father. As per report (Ex. DE), it was found that extra classes were not being held in the school at the relevant time neither were the school vans plying during this period. The Principal of the school as well as the driver of the school van revealed the said facts before the SIT. The victim admitted that Surjit Singh Sandhu is the Director/Principal of her school and Major Singh is the driver of the van which used to ferry her to school.

Palpable doubt is raised on the version put forth by the complainant on a perusal of the evidence on record. First and foremost, there is nothing on record to show as to who informed the victim's grandfather of her abduction from the bridge. In case, the victim was waiting at the canal bridge for the school van when her grandfather was proceeding to the petrol pump, there is no reason for any apprehension to rise in his mind on not finding her present at that spot on the way back, as it would be a normal presumption that she might have boarded the school van, in the interregnum. However, even if it is accepted for the sake of arguments that such information of the victim's abduction was indeed conveyed to the grandfather, there is no plausible explanation as to why he first went to his residence, picked up his daughter-in-law and thereafter pursued the Indica car, in which the victim was being taken by the appellant and Bhupinder Singh. In case,

the accused had sped away from the spot after abducting the victim as alleged, it is highly improbable that they would still be in the vicinity, permitting the grandfather and mother of the victim to chase them till Landran, as narrated. It is not the case of the prosecution that the appellant alongwith the co-accused had taken the victim in the car and were waiting on the road side, thereby enabling the grandfather to follow them and duly identify them as well. The grandfather of the victim had not seen the victim being forcibly taken by the appellant as the version put forth by the prosecution is that the grandfather was informed of the incident. The identity of the person informing the grandfather has not been disclosed. It is further opposed to all probability that if the grandfather and the mother of the victim had witnessed the victim being taken away by the appellant and Bhupinder Singh, they would have simply returned back home without taking immediate action against the accused. It appears highly unnatural that they would have come back home and waited quietly for the victim to be dropped back by the accused at about 2 o'clock in the afternoon without raising any hue or cry. The victim's grandfather admittedly remained a Panch of the village and contested elections regularly, therefore, it appears improbable that the return of the victim's father was awaited to approach the superior police officials to complain of police inaction.

Furthermore, it is a matter of record that the victim at the first instance has not raised any allegation of commission of rape in her

statement recorded on 11.07.2009. In the FIR, the victim merely stated that she was insulted by the accused when they forcibly took her in the car at 8.00 a.m., proceeded on the extremely busy road towards Chandigarh, went to Sector 17, Chandigarh and thereafter threw her outside the village dispensary. The victim PW2 in her cross examination admitted that her grandfather remained the Panch of the village Brass and regularly contested elections. He earlier owed allegiance to the Akali Party and later on joined the Congress. He admittedly enjoy considerable clout in the village. The appellant's father Satnam Singh and the victim's grandfather admittedly contested elections from opposite sides though earlier the victim's grandfather used to support Satnam Singh. Thus, the factum of strained relations is undeniable.

Therefore, to convict the appellant on the sole testimony of the prosecutrix/victim would not be safe. Prosecution sought corroboration from the evidence of Dr. Usha Singla (Court witness). Much stress has been laid by learned counsel for the State on the evidence of Dr. Usha Singla, specifically her answer to the court question that the external injury upon the victim would not be possible with her clothes on or without an attack on her person.

The injuries detected on the person of the victim when examined on 20.07.2009 are as under:-

“External injuries:-

1. 0.5 cm healing abrasion on left side of face brownish in

colour.

2. 2.5 cm x 0.75 cm horizontal reddish brown bruise on left side front of chest 2 cm from superasternal notch.

3. 2.5 cm x 2 cm brownish bruise in healing stage of inner side of left thigh 13 cm above left knee joint.

Secondary sex characters fully developed.

Local examination :-

Pubic hair present, external genitals fully developed.

No extra vaginal or intra vaginal injuries seen.

External vaginal swab and intra vaginal swab from fornices taken and labelled as A and B and preserved for chemical examination and sealed in a Jar with two seals.

Vaginal orifice admits little finger with pain, finger is blood stained indicating starting of menstruation.”

The learned trial Court has wrongly drawn an inference of the commission of rape upon the victim by the appellant on the basis of the response of Dr. Usha Singla to the Court questions while ignoring the material discrepancies in the evidence which strike at the very foundation of the prosecution version. Though examination of Dr. Usha Singla as a Court witness cannot be linked with the dismissal of the application under Section 311 Cr.P.C. on 21.09.2011 as prosecution had sought to prove the medical evidence in respect to the report of the medical Board constituted nine months after the examination of the victim vide the said application. It is a matter of record that Dr. Usha Singla had led preliminary evidence as CW5. At the same time eliciting of the said response of Dr. Usha Singla in response to a Court question

cannot be made the basis of conviction of the appellant in the light of the evidence on record.

A close and wholesome scrutiny of the evidence of the record reveals that the prosecution has failed to prove its case against the appellant beyond all reasonable doubt. The evidence on record, does not unerringly point to a hypothesis of the guilt of the appellant beyond the shadow of a reasonable doubt. A specific doubt is cast on the prosecution version, the benefit of which necessarily accrues to the appellant. It would indeed be rash and improper to convict the appellant for the offences punishable under Sections 342, 376 and 506 IPC in the light of the evidence on record. As per the custody certificate dated 13.10.2017, the appellant has undergone actual imprisonment of four years, eleven months and fourteen days of the sentence imposed upon him as on 12.10.2017.

Keeping in view the facts and circumstances of the case, it is concluded that the prosecution has failed to prove its case against the appellant beyond reasonable doubt. The learned Additional Sessions Judge, Fatehgarh Sahib has erred in convicting and sentencing the appellant as detailed above for the commission of the offences punishable under Sections 342, 376 and 506 IPC

Accordingly, this appeal is allowed. The appellant is acquitted of all the charges against him.

Consequently, impugned judgment and order dated

14.02.2013 passed by the learned Additional Sessions Judge, Fatehgarh

Sahib is set aside. The appellant be released forthwith in case not required in any other case.

October 23, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :

Yes/No

Whether reportable :

Yes/No