

304 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA S-981-SB of 2002 (O&M)

Date of Decision: 06.09.2017.

Suba Singh and others

... Appellants

Versus

State of Punjab

... Respondent

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Tarundeep Singh, Advocate for
Mr. D.S. Pheruman, Advocate,
for the appellants.

Mr. N.K. Banka, DAG, Punjab.

JITENDRA CHAUHAN.J.

This appeal is directed against the judgment and order dated 16.05.2002 passed by Additional Sessions Judge (Adhoc), Fast Track Court, Amritsar vide which the appellants were convicted and sentenced as under:-

Offence	Sentence	Fine	In default
120-B IPC	RI for 3 years	Rs.1000/-	RI for 1 month
363 IPC	RI for 5 years	Rs.1000/-	RI for 1 month
366 IPC	RI for 7 years	Rs.1000/-	RI for 1 month

All the sentences were ordered to run concurrently.

Brief facts of the case as noticed in the judgment passed by the trial Court are as under:-

“Briefly stated that allegations of the prosecution are

that on 3.5.93, Gurmit Kaur had gone to the fields to serve meals to her father Kashmir Singh and Labh Singh elder brother of her father and thereafter she was going back to her house when on the way she was called by Balwinder Kaur, accused. She went to Balwinder Kaur and Gurdip Singh who was present there thrusting piece of cloth in her mouth and Sube Singh accused tied a piece of cloth on her eyes and she was forced to smell some intoxicant. She became unconscious. When she regained consciousness she found herself on railway station, Amritsar and she saw there Balwinder Kaur, Taro, Baljit Singh and Sube Singh at the railway station. She was taken to U.P and Baljit Singh had threatened to kill her if she raised alarm. They took her to the house of Baljit Singh accused at village Kachha, District Sitapur (U.P.) and forced her to live with him as his wife. She was kept in that house by Baljit Singh who used to beat her. After three years, she was sold for Rs.9000/- to Harjinder Singh son of maternal uncle of Baljit Singh. After one year or so, Harjinder Singh died. One lady of the name of Rani of village Kalsian met her at the residence of Harjinder Singh. She sent

a message through Rani to her parents. On receipt of message, elder brother of her father and Major Singh went to the house of Harjinder Singh. Later on they obtained search warrants of Gurmit Kaur and got her recovered from the house of Harjinder Singh. She was produced before the SDM Patti by whom search warrants had been issued. SDM Patti recorded her statement copy of which is Ex.PE, on the basis of which by making endorsement Ex.PE/1, FIR Ex.PE/2 was registered.

After investigation challan/report under Section 173 Cr.P.C was presented before the Area Magistrate.

After complying with the provisions of Section 207 Cr.P.C, the case was committed to the Court of Session.

Charges under Sections 120-B, 363, 366, 366-A, 368, 376 and 506 IPC were framed against the accused to which they pleaded not guilty and claimed trial.

In order to prove its case, the prosecution had examined Dr. Amrit PW-1, who medico-legally examined the prosecutrix; Rishi Ram PW-2, who prepared the scaled site plan Ex.PB; Bhagwan Singh PW-3, who proved the application made by Labh Singh to SDM, Patti Ex.PC, on the basis of which search warrants of the prosecutrix were issued by SDM; Gurmit Kaur PW-4, who

narrated the entire incident, Joginder Kaur PW-5, school teacher of the prosecutrix who had brought the school record and stated that the prosecutrix was admitted in the third standard in the school on 22.05.1989 and while she was in 5th class, her name was struck off. Her date of birth entered in the school record was 23.03.1981; Labh Singh PW-6, uncle of the prosecutrix supported the case of the prosecution; Charan Singh ASI PW-7 is the investigating officer of the case; Dr. Sham Lal Gupta PW-8, examined accused Baljit Singh with regard to fitness to perform sexual intercourse; Narinder Singh S.I. (Retd.) PW-9 who deposed that accused Swaran Singh, Suba Singh and Gurdip Singh were arrested by him and closed its evidence.

Statements of the accused were recorded under Section 313 Cr.P.C and all the incriminating circumstances appearing in the prosecution evidence were put to them to which they denied and pleaded false implication. However, it was stated by accused Gurdeep Singh that Gurmit Kaur was also known by the name of Raj Kaur. She had gained age of majority on 03.05.1993. She was married to Baljit Singh. On that day, she appeared before Notary Public at Sitapur and got registered her marriage. She resided with Baljit Singh as his wife and later on deserted him and married Harjinder Singh. After the death of Harjinder Singh, she approached Baljit Singh to keep her as his wife. On refusal, she threatened to involve all of them in a false case. The same was the plea taken by Baljit Singh accused.

Baljit Singh accused appeared as witness DW-1 and reiterated his aforesaid version.

During trial, accused Taro died so, proceedings qua her were abated.

After appraisal of evidence, vide impugned judgment and order dated 16.05.2002, the learned trial Court convicted and sentenced the accused as narrated in the first paragraph of the judgment.

Feeling dis-satisfied, the present appeal has been filed by the accused.

During pendency of present appeal, accused Gurdeep Singh/appellant No.2 also passed away so, appeal qua him stood abated vide order dated 18.01.2017.

It is also observed in the order dated 18.01.2017 that accused/appellant No.3 Baljit Singh had already completed his sentence and paid the fine.

It is contended by the learned counsel for the appellants that there is no proof of age of the prosecutrix. It is further contended that main accused Baljit Singh has already completed his sentence. The accused and the prosecutrix are co-villagers but in the FIR, the name of the accused were not mentioned.

On the other hand, the learned State counsel submits that all the accused had played an active role in the kidnapping of the

prosecutrix. The trial Court has considered all the aspects of the matter and has rightly convicted and sentenced all the accused.

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

The prosecutrix while appearing as PW-4 has stated that on 03.05.1993 she had gone to the fields for serving meal to her father Kashmir Singh and uncle Labh Singh. After serving the meal, while she was on her way back, Balwinder Kaur asked her to stop. Subha Singh and Gurdeep Singh were also present there. When she reached, Gurdip Singh accused gagged her mouth by putting a piece of cloth whereas, Balwinder Kaur caught hold of her by her arm. Subha Singh tied cloth on her eyes. Subha Singh and Gurdip Singh forced her to smell some intoxicating material and she became unconscious. She got slight consciousness at the Railway Station, Amritsar. Subha Singh, Gurdip Singh, Balwinder Kaur and Baljit Singh were present at the Railway Station. All of them took her forcibly to the house of Baljit Singh in Karsha, Uttar Pradesh. She was forcibly kept there as wife of Baljit Singh. Baljit Singh had been committing rape upon her for three years. She was aged about 12 years at that time. Thereafter, Baljit Singh sold her to Harjinder Singh for consideration of Rs.9000/- . She lived in the house of Harjinder Singh for one and a half years. A daughter was also born to her from the loins of Harjinder Singh. Ranjit Kaur met her at the marriage of son of brother of Surta Singh. She

identified the prosecutrix and she narrated the entire occurrence to her who onwards narrated the occurrence to her brothers. Her uncle Labh Singh went to Uttar Pradesh and she disclosed the entire tale to him. Major Singh and Labh Singh also accompanied her uncle. Thereafter, they got her recovered from the custody of Harjinder Singh.

PW-5, Joginder Kaur, Teacher, Government Primary School (Girls) Valtoha had produced a register pertaining to admission and withdrawal of children from the school for the year 1985-86. As per the record, the prosecutrix was admitted in the school on 22.05.1989 in third class. The school leaving certificate is Ex.PF. As per the certificate, her date of birth was 23.03.1981. This being so, the prosecutrix was not more than 14 years of age at the time of occurrence. Further, it has come in the evidence of the prosecutrix that when after serving meals to her father and uncle, while she was on the way to her house, she was overpowered by the accused, her mouth was gagged with a piece of cloth and she was blindfolded by Suba Singh who had forced her to smell some intoxicating substance. When she regained consciousness she found herself at the Railway Station, Amritsar and she saw all the accused there and thereafter she was criminally intimidated by accused Baljit Singh to kill her in case of her raising hue and cry. Further the version of the prosecutrix is corroborated by the testimony of PW-3 Bhagwan Singh, Reader to SDM, Patti, who deposed that on the application Ex.PC, search

warrants of the prosecutrix were issued by the then SDM, Patti. On being searched, she was produced before the Court of SDM, Patti by the Police on 06.01.1998. The prosecution has further examined PW-06 Labh Singh, uncle of the prosecutrix. He has deposed that on 03.05.1993 the prosecutrix had come to the fields where he and his labourers were working. He returned to his home at 5.00 pm. The mother of the prosecutrix inquired from him where the prosecutrix was as she had not yet returned from the fields. After making a lot of effort, they could not search her out. After 5/5 ½ years, Major Singh informed that the prosecutrix was in the house of Harjinder Singh. They went to Uttar Pradesh to enquire about the prosecutrix. They found that Harjinder Singh had died. The prosecutrix was present in the courtyard of the house which had been blocked from outside. She narrated the entire incident to him. Thereafter, Labh Singh came to Patti and got issued warrants from the SDM. In this manner, the prosecution version stands fully established that the prosecutrix was kidnapped by the accused and she was forcibly kept in Uttar Pradesh against her wish. The prosecutrix was of tender age when she was kidnapped.

In view of above, this Court does not find any merit in the arguments raised by the learned counsel for the appellants. Consequently, the present appeal is dismissed. The impugned judgment and order are upheld. Appellant/accused Suba Singh and Balwinder Kaur are stated to be on bail. Their bail bonds and surety bonds are

discharged. They be taken into custody to serve the remaining part of the sentence. As noticed above, appellant No.3 Baljit Singh had already completed his sentence and paid the fine.

06.09.2017.
SN

(JITENDRA CHAUHAN)
JUDGE

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