

In the High Court for the States of Punjab and Haryana
at Chandigarh

(Sr.No.306)

CRR No.2456 of 2006**Date of Decision:-July 06, 2017**

Kuldip Singh and others

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present : Ms. Aditi Girdhar, Amicus Curiae,
for the petitioners.

Ms. Ruchika Sabherwal, Assistant Advocate General, Punjab.

Gurvinder Singh Gill J. (Oral)

1. The petitioners namely Kuldip Singh, Nanak Singh, Dharminder Singh and Gursewak Singh have filed the present revision petition challenging judgment dated 18.10.2006 passed by Sessions Judge, Amritsar vide which their conviction under section 354 of Indian Penal Code, 1860 (for short "the IPC") as recorded by the Judicial Magistrate II Class, Amritsar as well as the sentence of rigorous imprisonment for a period of one year along with fine to the tune of Rs.250/- each as imposed upon them has been upheld.
2. The allegations in nut-shell are that the prosecutrix PW-2 Rupinder Kaur who was studying in class 8th in Government High School, Vallah used to go to her school daily on her bicycle and on 07.07.2000 when she was returning back home from her school at about 02:00 P.M. then she was waylaid on the way by the aforesaid four accused/petitioners. The petitioner Kuldip Singh had

obstructed her with his bicycle as a result of which she fell down. The complainant has alleged that Nanak Singh touched her breasts and asked her to accompany them and offered to pay money to her. Gursewak Singh and Kuldip Singh allegedly pulled her cheeks and Dharminder Singh touched her buttocks. The prosecutrix, in an attempt to defend herself asked the accused whether they did not have any sister in their house to which they replied that their sisters were not like her. It is further, the case of the prosecution that Balbir Singh-PW-3 happened to pass through that area on bicycle and saw the accused teasing the prosecutrix and when he confronted them, the accused went away on their bicycles.

3. The prosecutrix on returning back home informed her parents and who deliberated over the matter and also talked to the guardians of the accused and efforts were made for a compromise but to no avail. Ultimately, on 09.07.2000 the prosecutrix along with her parents approached the Police Post, Vallah and her statement (Ex.PC) was recorded by PW-1 ASI Baljit Singh, on the basis of which FIR (Ex.PA/2) was recorded. The police conducted the requisite investigation, during the course of which the accused were sent up for trial in the Court of learned Judicial Magistrate, Amritsar, where charges were framed against the accused in respect of the offence under Section 354 of the IPC to which the accused pleaded not guilty.
4. The prosecution in order to establish charges framed against the accused examined the investigating officer ASI Baljit Singh as PW-1, the prosecutrix Rupinder Kaur as PW-2 and eye witness Balbir Singh as PW-3. The accused in their statement recorded under Section 313 Cr.P.C. took up the plea of false

implication and pleaded innocence. However, the accused did not produce any evidence in the defence.

5. The learned trial Court on the basis of the evidence led before it held all the four accused guilty of having committed an offence punishable under Section 354 of IPC and accordingly convicted them vide judgment dated 23.12.2005 and sentences all of them to undergo rigorous imprisonment for one year and also imposed a fine amounting to Rs.250/- on each of the convicts. The accused challenged the said judgment by way of filing an appeal in the Court of learned Sessions Judge, Amritsar, but the Sessions Judge finding no merit in the same and dismissed the appeal vide judgment dated 18.10.2006. The accused/petitioners feeling aggrieved by the same and thus filed the present revision petition challenging the aforesaid judgment.
6. I have heard learned counsel for the petitioners as well as the learned counsel representing the State. Learned counsel for the petitioners has mainly assailed the case of the prosecution on the ground that the same is based on the solitary statement of the prosecutrix namely PW-2 Rupinder Kaur and that the same is not fully corroborated from the statement of the alleged witness namely PW-3 Balbir Singh. Learned counsel for the petitioners has drawn the attention of the Court to the testimony of PW-3 Balbir Singh, wherein during cross examination he has stated that he did not know as to which of the accused had asked the victim to go along with them and had offered money to her. He has further stated that he can not tell as to which of the accused had stopped her bicycle.
7. Learned counsel for the petitioners has further submitted that in fact the

testimony of the witness namely Balbir Singh PW-3 stands discredited by the fact that he has stated that his statement was recorded by the police on the evening of the day of occurrence whereas the FIR in fact has been recorded two days after the occurrence and there was no occasion for the police to record her statement on the day of occurrence.

8. On the other hand, the learned State counsel has submitted that the statement of the prosecutrix PW-2 Rupinder Kaur is absolutely consistent with the version in the FIR and her testimony could not be shattered despite lengthy cross examination. The learned State counsel has further stated that the statement of the prosecutrix PW-2 Rupinder Kaur stands duly corroborated by the statement of PW-3 Balbir Singh who has duly identified the accused, though he did not know their names.
9. I have considered the rival submissions and have also perused the record of the case. A perusal of the statement of the prosecutrix PW-2 Rupinder Kaur shows that the same is in absolute consistence with the allegations levelled in the FIR. She has specifically stated that on 07.07.2000 when she was returning back from her school, accused Kuldeep Singh had stopped his bicycle in front of her bicycle and as a result of which she fell down and that the accused Nanak Singh touched her cheeks and asked her to accompany them and offered to pay her money. She further stated that accused Gursewak Singh and Kuldeep Singh touched her breasts and that the accused Dharminder Singh touched her buttocks.
10. During the course of cross examination she has stated that she is studying in a co-educational school in class 8th and that her class is different from those of

boys and that Dharminder Singh, Nanak Singh and Kuldip Singh were studying in her school and were residing near her house and she was acquainted with them as they were in the same school. She has further stated that on earlier occasions also the accused had followed her but she had not informed her parents or teachers. I further find that the testimony of PW-2 Rupinder Kaur finds sufficient corroboration from the statement of PW-3 Balbir Singh. No doubt in his cross-examination he has stated that his statement was recorded by the police on the day of occurrence, but a perusal of his statement recorded by the police under Section 161 of Cr.P.C. shows that the same was recorded on 07.07.2000 and not on 05.07.2000. Such like minor discrepancy would not demolish the case of the prosecution especially when the testimony of prosecutrix PW-2 Rupinder Kaur inspires confidence.

11. In any case, it is well settled that in such like cases if the testimony of the victim inspires confidence the conviction can well be recorded on the solitary statement of the victim. A reference in this context may be made to a judgment of this Court reported as 1998 (4) RCR (Criminal) 664 titled as Kanwar Pal Singh Gill Versus The State (Administration, U.T. Chandigarh), wherein while dealing with the contention of the petitioner (accused) regarding withholding of independent witness it was held as follows:-

“A part of this argument I have discussed in the earlier portion of this judgment and at the cost of repetition I am of the view that to the law victims of sexual assault whether under Section 354 or under Section 509 or under Section 376 or under Section 366 or under Section 363 of the Indian Penal Code, stand on equal

pedestal. She is a victim whose testimony is to be considered like that of the injured witness. Her feelings and modesty have been hurt in each of these offences and keeping in view the traditions of our country, specially in northern India, no respectable woman would come forward with false allegations nor she would like to tear her abdomen unless the things had happened in the real state. There can be very few cases where the victim comes forward in order to grind her axe.”

12. In the aforesaid judgment, this Court further while relying upon 1983 SCC (Cri.) 728 titled as Bharwada Bhoginbhai Hirjibhai Versus State of Gujarat, held as follows:-

“The rule of prudence is that the law courts may look towards corroboration for its convenience and propriety but if the Court after making a rational appraisal of the statement of the prosecutrix, comes to an independent conclusion that what has been stated by the prosecutrix must be reasonably true, such statement and deposition on the part of the prosecutrix should be accepted. As a Revisional Court, I will only interfere if I come to the conclusion that the finding of fact has been given by the Courts below in a perverse manner or by illegal appreciation of evidence.”

13. In the present case, I find that there was no motive for the complainant to have falsely implicated the accused while staking her reputation. In these circumstances, I do not find any reason to disbelieve the prosecutrix PW-2

namely Rupinder Kaur and consequently her statement itself is sufficient to bring home the guilt of the accused. As such I do not find any ground to interfere in the findings of conviction as recorded by the trial Court and upheld by the lower appellate Court vide the impugned judgment dated 18.10.2006 passed by the Sessions Judge, Amritsar and the same are hereby affirmed.

14. As regards the quantum of sentence, the petitioners have been sentenced to undergo rigorous imprisonment for a period of one year along with fine to the tune of Rs.250/- each. All the aforesaid four accused were aged around 18 years at the time of occurrence and were students. Custody certificates in respect of the petitioners have been filed by the State counsel in Court and the same are taken on record as per which all of them have already undergone more than 5 months of sentence including 16 days of remission. There is nothing on record to show that the petitioners are previous convicts. The petitioners have been facing incarceration of trial since the last about 17 years. In these circumstances, I find that there is justification for reduction in sentence. Consequently, the sentence of imprisonment as imposed upon the petitioners is reduced to the period already undergone by the petitioners/accused.

15. The revision petition consequently stands dismissed with the aforesaid modification in the quantum of sentence.

July 06, 2017
pankaj

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No