

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

CRR No. 4015 of 2012

Date of decision: 13.01.2017

Vinod Kumar Saini

... Petitioner

versus

Jitender @ Monu and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sandeep Kotla, Advocate for the petitioner.
Mr. Yogesh Saini, Advocate for respondent Nos. 1 & 2.
Ms. Mahima Yashpal, AAG Haryana.

RITU BAHRI, J. (ORAL)

The present revision petition has been filed against the judgment dated 07.11.2012 whereby the respondents Jitender @ Monu and Raj Kumar @ Bura has since been acquitted. The case of the prosecution is that the niece of Vinod Kumar Saini-petitioner went missing on 28.04.2009. The victim was recovered from Jitender @ Monu and Raj Kumar @ Bura. Witnesses along with complainant PW-4 and PW-6-victim were examined.

After recording the statement of victim under Section 164 Cr.P.C. FIR was registered and they were charge sheeted under Sections 363/366/376/342 & 506 IPC. During the trial, 10 prosecution witnesses were examined and thereafter statements of accused were recorded under Section 313 Cr.P.C. In paragraph 9 of the judgment, the trial court has observed that while making a statement under Section 164 Cr.P.C. PW-6-victim had stated that she was taken by the juveniles and had been threatened. In the said statement she did not mention that any of the juvenile was carrying any weapon to substantiate the evidence of threat. However, while appearing as PW-6 she has stated that Jitender has forcibly taken her to a house taken on rent in the neighbourhood and has also stated that on 28.04.2009 when she had gone to

purchase some grocery items both the accused one having pistol and other having knife threatened her to come with them. They had taken a house on the rent and she was taken in a room where Jitender raped her. Thereafter she was taken to Sanjay Chowk Panipat where again she was threatened by them. She was then taken to Faridabad and was confined in room and when they ran out of money they took her to Haridwar and the Police apprehended them at Panipat Chowk.

In the version given while appearing as PW-6 she has stated to be threatened as both of the accused were carrying knife and pistol. This fact has not been mentioned by her in the statement given under Section 164 Cr.P.C. From the fact that the victim was accompanied by juveniles to Panipat Chowk and thereafter went to Faridabad and she was in their company for about 3 to 4 days and she made no attempt to raise any alarm and keeping in view that the version given by her as PW6 is totally different. Trial Court has extended the benefit of doubt and acquitted them. Version of complainant Vinod Kumar Saini who appeared as PW4 and PW-7 Virender Kumar against the accused has been rightly ignored by the trial Court.

The revision petition is dismissed with the observations made above.

(RITU BAHRI)
JUDGE

13.01.2017

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Whether speaking/non-speaking: Yes/No

Whether reportable : Yes/No