

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **CRA-S-1233-SB-2004**

DATE OF DECISION: AUGUST 28, 2018

GEETA ...APPELLANT

VERSUS

STATE OF PUNJAB ...RESPONDENT

2. **CRA-S-1423-SB-2004**

SANT RAM ...APPELLANT

VERSUS

STATE OF PUNJAB ...RESPONDENT

3. **CRA-S-1260-SB-2004**

USHA RANI ...APPELLANT

VERSUS

STATE OF PUNJAB ...RESPONDENT

4. **CRA-S-1506-SB-2004**

MITHU SINGH ...APPELLANT

VERSUS

STATE OF PUNJAB ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN.

PRESENT: MR. A.K. KHUNGER, ADVOCATE
FOR THE APPELLANT IN CRA-S-1233-SB-2004.

MR. ASHISH GUPTA, ADVOCATE
FOR THE APPELLANT IN CRA-S-1260-SB-2004.

NONE FOR THE APPELLANT
IN CRA-S-1423-SB-2004 & CRA-S-1506-SB-2004.

MR. RAKESHINDER SINGH SIDHU, AAG, PUNJAB.

H.S. MADAAN, J.(ORAL)

This judgement shall dispose of all the four appeals arising against judgement of conviction and order of sentence dated 26.5.2004, passed by Addl. Sessions Judge-cum-Fast Track Court, Bathinda vide which he had convicted and sentenced accused-appellants Sant Ram, Geeta, Usha Rani and Mithu Singh as under:-

Appellant	Section	Sentence
Sant Ram	420 IPC	R.I. for 4 years and to pay a fine of ₹1000/- and in default of payment of fine to undergo further R.I. for 4 months.
	506 IPC	R.I. for 1 year and to pay a fine of ₹200/- and in default of payment of fine to undergo further R.I. for 1 month.
Geeta Devi	420 IPC	R.I. for 4 years and to pay a fine of ₹1000/- and in default of payment of fine to undergo further R.I. for 4 months.
	506 IPC	R.I. for 1 year and to pay a fine of ₹200/- and in default of payment of fine to undergo further R.I. for 1 month.
	120 IPC	R.I. for 2 years and to pay a fine of ₹500/- and in default of payment of fine to undergo further R.I. for 2 months.
Usha Rani	420 IPC	R.I. for 4 years and to pay a fine of ₹1000/- and in default of payment of fine to undergo further R.I. for 4 months.

Appellant	Section	Sentence
	506 IPC	R.I. for 1 year and to pay a fine of ₹200/- and in default of payment of fine to undergo further R.I. for 1 month.
	120 IPC	R.I. for 2 years and to pay a fine of ₹500/- and in default of payment of fine to undergo further R.I. for 2 months.
Mithu Singh	376 IPC	R.I. for 9 years and to pay a fine of ₹5000/- and in default of payment of fine to undergo further R.I. for 6 months.
	506 IPC	R.I. for 1 year and to pay a fine of ₹200/- and in default of payment of fine to undergo further R.I. for 1 month.
	120 IPC	R.I. for 2 years and to pay a fine of ₹500/- and in default of payment of fine to undergo further R.I. for 2 months.

All the sentences were ordered to run concurrently.

Feeling aggrieved by the said judgement of conviction and order of sentence, all the four convict/appellants have preferred their respective appeals notice of which was given to the State.

I have heard learned counsel for the appellants, learned State counsel besides going through the record.

Briefly stated, the prosecution story is that criminal machinery in this case was set into motion by complainant (identity withheld as per the judgement of Hon'ble Supreme Court) aged 17 years. In the statement made to the police on 19.7.2002 at about 7.30 p.m., it was stated by the

prosecutrix that she was married with one Kailash S/o Gobind Yadav R/o Makar, District Amethi about 2 years earlier, but attitude of her husband towards her was not proper and as such she left the matrimonial home for going to her parental home at Panipat. While she was alone in the train, appellant Sant Ram alongwith her wife R/o Janta Nagar, Bathinda started talking with her and gave her an assurance that she would be left with her mother at Panipat, but instead of doing that they took her to Bathinda.

According to the complainant, she stayed with them for 3-4 days. Thereafter they left her at the house of accused Geeta Rani wife of Om Parkash and Rani wife of Shanker resident of Balla Ram Nagar, Bathinda, where accused Sant Ram resident of Bathinda and Mithu Singh resident of Jaitu used to visit her. She was taken to Court where she made a statement but that was out of fear and not made voluntarily. In the said statement made by her, she had stated that she was married with Mithu Singh son of Tek Singh resident of Jaitu.

Accused Mithu Singh had sexual intercourse with her forcibly against her wishes. On 19.7.2002, while being in house of Geeta at Bathinda, the complainant contacted Gurdev Kaur W/o Surjit Singh R/o Balla Ram Nagar, Bathinda, who got her free from the custody of the accused. She stated that Sant Ram, Shanker, Ravi and Geeta were responsible for her fate since they were getting money from Mithu Singh.

On the basis of the said complaint, complainant was got medico-legally examined and formal FIR was registered. Investigation in the case started. The Investigating Officer recorded the statements of

witnesses, took into possession various articles. Accused were associated in this case. After completion of investigation and other formalities, charge against accused was prepared and filed in the Court of Illaqa Magistrate at Bathinda. On filing of challan in the Court of Illaqa Magistrate, copies of the documents relied upon were supplied under Section 207 Cr.P.C. Then, finding that offences under Section 376/506/420/120-B IPC are exclusively triable by the Court of learned Sessions Judge, learned Chief Judicial Magistrate, Bathinda vide order dated 19.2.2003 committed the case to the Court of Sessions at Bathinda, from where it was assigned to Addl. Sessions Judge, Bathinda.

Finding *prima facie* case, a formal charge was framed against the accused to which they pleaded not guilty and claimed trial. Case was fixed for evidence of prosecution.

During the course of evidence, the prosecution examined Dr.Dheera Gupta as PW1, Dr. Sushil Gupta as PW2, the prosecutrix as PW3 and ASI Major Singh as PW4. With that, evidence of the prosecution stood closed.

Statements of accused were recorded under Section 313 Cr.P.C. in which all the incriminating circumstances were put to them, to which they denied the allegations contending that they are innocent and have been falsely involved in this case. The accused did not lead any evidence in their defence.

After hearing the arguments, the trial Court convicted and sentenced the accused as stated supra.

Feeling aggrieved, the appellants have filed respective appeals. It may be mentioned that accused Mithu Singh has already undergone the sentence of imprisonment imposed on him and on payment of fine which was imposed on him, he has been released from jail. Therefore, appeal filed by him, i.e. CRA-S-1506-SB-2004 has been rendered infructuous and is dismissed accordingly.

Learned counsel for the appellants have argued that the trial Court has not given any reasoning for arriving at a conclusion that charge against the accused stood established.

I have perused the relevant part of judgement in question carefully. Para No.1 of the judgment deals with forwarding of accused by the police to face trial. Para No.2 narrates the facts of the case. Para No.3 deals with the investigation part. As regards Para No.4, it deals with filing of challan in the Court. Para No.5 is with respect to commitment of case by the Chief Judicial Magistrate, Bathinda to the Court of Sessions, Bathinda. Para No.6 relates to framing of charge against accused. Para No.7 provides details of witnesses examined by the prosecution. Para No.8 discusses the testimony of PW1 Dr. Dheera Gupta who had medico-legally examined the prosecutrix and prepared her MLR (Ex.PA). Para No.9 discusses the deposition of PW2 Dr. Sushil Gupta who had examined accused Mithu Singh on 22.7.2002 finding him fit to perform sexual intercourse. Para No.10 reproduces the statements of the complainant/prosecutrix. Para No.11 is with regard to statement made by PW4 ASI Major Singh who had carried out investigation in this case. Para No.12 deals with the statements

of accused recorded under Section 313 Cr.P.C. Paras No.13 to 19 deals with conclusion. For ready reference, they are being reproduced as under:-

“13. I have heard Ld. Addl.P.P. for the state and Ld. defence counsel and perused the file in detail and gone through the evidence with their able assistance.

14. In view of the above discussion, it is clear that no marriage was solemnised between Mithu Singh and Sangeeta Rani according to Hindu rites and Sangeeta Rani is already married and no divorce has taken place between them. So the complaint, affidavit and statement dated 1.7.2002 and 2.7.2002 made by her in the complaint case, have no value regarding the sacrament of Hindu Marriage.

15. In view of the abovesaid facts, the Law finds the accused are of guilty. Sant Ram, Geeta and Usha Rani enticed Sangeeta to accompany with them and stated to her that they would cheated Sangeeta by forcibly marrying her with Mithu Singh, thereby committed an offence under Section-420 IPC.

16. On 19.7.2002, Sant Ram, Geeta Rani, Usha Rani and Mithu Singh committed criminal intimidation by threatening Sangeeta to kill her and all the accused thereby committed an offence under Section 506 IPC.

17. On the abovesaid date, accused Mithu Singh took Sangeeta to Jaitu and committed rape on Sangeeta repeatedly