

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-1850-SB-2004 (O&M)
Decided on: 30.08.2018

Simran Kaur and another
State of Punjab

Versus

.... Appellants
..... Respondents

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

Present: Mr. P.S. Miglani, Advocate,
for the appellants.

Mr. Rakeshinder Singh Sidhu, AAG, Punjab.

H.S. MADAAN, J (ORAL)

Custody certificates filed.

Accused Gurdev Singh, Simran Kaur, Amarjit Kaur and Bhupinder Kaur were tried by Additional Sessions Judge (Ad hoc), Amritsar, who vide judgment dated 14.05.2004 acquitted Bhupinder Kaur of the charge framed against her giving benefit of doubt, whereas remaining three accused, namely, Gurdev Singh, Simran Kaur, Amarjit Kaur were convicted and sentenced as follows:-

Gurdev Singh	
Under Section 376 IPC :	To undergo rigorous imprisonment for 10 years and to pay a fine of Rs.2000/- and in default of payment of fine, to further undergo rigorous imprisonment for 3 months.
Under Section 315 IPC :	To undergo rigorous imprisonment for 7 years.
Under Section 316 IPC :	To undergo rigorous imprisonment for 7 years and to pay a fine of Rs.1000/- and in default of payment of fine, to further undergo rigorous imprisonment for 2 months.
Under Section 318 IPC :	To undergo rigorous imprisonment for 2 years.
Simran Kaur	
Under Section 315 IPC :	To undergo rigorous imprisonment for 7 years.

Under Section 316 IPC :	To undergo rigorous imprisonment for 7 years and to pay a fine of Rs.1000/- and in default of payment of fine, to further undergo rigorous imprisonment for 2 months.
Under Section 318 IPC :	To undergo rigorous imprisonment for 2 years.
Amarjit Kaur	
Under Section 315 IPC :	To undergo rigorous imprisonment for 7 years.
Under Section 316 IPC :	To undergo rigorous imprisonment for 7 years and to pay a fine of Rs.1000/- and in default of payment of fine, to further undergo rigorous imprisonment for 2 months.
Under Section 318 IPC :	To undergo rigorous imprisonment for 2 years.

All the substantive sentences were ordered to run concurrently.

Feeling aggrieved, the three convicts have filed separate appeals before this Court. Simran Kaur and Amarjit Kaur have filed a joint appeal, whereas Gurdev Singh has filed a separate appeal.

Briefly stated the facts of the case as per prosecution story are that accused Gurdev Singh had committed rape upon victim (name withheld with her) aged about 14 years at Majitha in the month of February, 2003 and even earlier with the result, she conceived and then Gurdev Singh alongwith Simran Kaur, Amarjit Kaur and Bhupinder Kaur conspired and got the foetus aborted illegally, while the victim was carrying pregnancy of six and half months and then Amarjit Kaur having common intention with Simran Kaur and Gurdev Singh disposed off dead body of the still born child/foetus.

During pendency of the appeal, Simran Kaur and Amarjit Kaur have entered into a compromise with the victim. Statements have been got recorded before Additional District and Sessions Judge, Amritsar, who has sent his report and that parties have entered into a compromise, out of free will. Complainant-victim has pleaded no objection, if sentence of the appellants is reduced. Copy of compromise deed has been placed on record.

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

As per custody certificate filed by the State counsel, Simran Kaur has undergone total sentence of 2 years, 10 months and 7 days, whereas Amarjit Kaur has undergone 4 years, 3 months and 11 days which include remissions. They are not shown to be involved in any other criminal case.

Amarjit Kaur is stated to be aged about 54 years and Simran Kaur is of 44 years. Amarjit Kaur is stated to have lost her husband, whereas Simran Kaur is married and having family.

Learned counsel for the appellants has referred to citation **Puttaswamy vs. State of Karnataka 2009(1) RCR Criminal 501**, wherein Apex Court had observed that a non-compoundable offence cannot be compounded, but sentence may be reduced, if the parties compromise the matter.

Under the circumstances and in view of the compromise having been entered into between the parties, the judgment of conviction with respect to Simran Kaur and Amarjit Kaur is upheld, but as regards their sentence, the same is reduced to one already undergone by them in this case, while keeping the fine part intact.

The appeal in that way is allowed partly.

(H.S. MADAAN)
JUDGE

30.08.2018
Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No