

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

**CRM 7865 of 2018 and  
CRA AD-128 of 2015  
Date of Decision : July 30, 2018**

Bhinder Kaur @ Bimla Devi .....Applicant

Versus

State of Punjab and others .... Respondents

**CORAM : HON'BLE MR. JUSTICE T.P.S.MANN  
HON'BLE MR. JUSTICE FATEH DEEP SINGH**

Present : Mr. Amaninder S. Sekhon, Advocate  
for the applicant/appellant.

Mr. H.S. Sullar, Deputy A.G., Punjab  
for respondent No.1-State.

Mr. Jaiteshwar Singh, Advocate for  
Mr. H.S. Brar, Advocate  
for respondents No. 2 to 4.

**T.P.S.MANN, J.**

The prosecutrix has filed the present application/appeal for challenging the judgment dated 29.7.2015 passed by learned Judge, Special Court, Sri Muktsar Sahib, whereby, the accused, who are respondents No. 2 to 4 herein, were acquitted of the charges under Sections, 120-B, 363, 366-A, 376-D IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012.

According to the prosecution, on the night intervening 8/9.6.2014, the prosecutrix after taking meal slept with her family members in the courtyard of her house. At 3.00 a.m., she went to

the street in front of house for urinating where Nikka Singh and Varinder Singh were standing with motor-cycle. Nikka Singh gagged her mouth with the help of saffa and forcibly made her sit on the motor-cycle. He also sat on the motor-cycle behind her and took her to the house of his aunt. In the same manner, she was taken to the house of Sukha Singh, Sarpanch, where Gurbakhash Singh father of Nikka Singh also came. She was, thereafter, taken to the shop of Harcharan Singh, where they committed rape upon her. At about 9.00/10.00 p.m., Gurbakhash Singh and Harcharan Singh left her at her house. She narrated the entire occurrence to her parents. On the basis of statement made by her, FIR was registered and she was medico-legally examined.

After hearing learned counsel for the parties and on going through the impugned judgment of acquittal, this Court finds that the prosecutrix was about twenty years of age on the day of the occurrence. An attempt was made to establish that the prosecutrix was less than eighteen years of age but no concrete evidence could be brought on record by the prosecution in that regard.

PW4 Dr. Kirandeep Kaur, Medical Officer, Civil Hospital Hospital, Sri Muktsar Sahib, who medico-legally examined the prosecutrix on 10.6.2014 did not find any external mark of injury over her external genitalia. The hymen was found

absent but there was no tenderness.

While making statement before the police on the basis of which the FIR was registered, the prosecution levelled allegations against Nikka Singh and Varinder Singh that when she was taken by accused to the house of Sukha Singh, Sarpanch, Gurbakhash Singh, father of Nikka Singh also reached there. She was then brought to the shop of Harcharan Singh, Numberdaar. She was, thereafter, taken to a room on the first floor, where she was raped by the two accused turn by turn and finally left at her house at about 9.00/10.00 p.m. However, she changed her version while making supplementary statement to the police on 11.6.2014 and disclosed the name of her father as Gurmeet Singh instead of Bhola Singh besides changing one of the accused by alleging that he was Davinder Singh. She also changed the place of occurrence by stating that she was taken to the house of maternal aunt of Nikka Singh, where she was locked in the room. This version of being locked in a room was not there either in the FIR or in the supplementary statement. She also stated that Mintu, Nikka Singh and Gurbakhash Singh took her to the shop of Harcharan Singh, Numberdaar. However, this was not so stated by her in the FIR or in her supplementary statement.

In view of the above, this Court finds that no case is made out for any interference in the impugned judgment of

CRM 7865 of 2018 and  
CRA AD-128 of 2015

-:4:-

acquittal. The application (CRM 7865 of 2018) and appeal (CRA-AD-128 of 2015) are devoid of any merit and, therefore, dismissed. Leave to appeal is declined.

( T.P.S. MANN )  
JUDGE

July 30, 2018  
amit rana

(FATEH DEEP SINGH)  
JUDGE

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|---------------------------|--------|
| Whether reasoned/speaking | Yes/No |
| Whether reportable        | Yes/No |