

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

CRM-A-994-MA-2016

Date of decision:-21.8.2018

Parminder Kaur and another

...Applicants

Versus

State of Punjab and others

...Respondents

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

Present: Mr.Narinder Singh, Advocate
for the applicants.

H.S. MADAAN, J.

Applicants – Parminder Kaur and Binder Kaur have filed this application under Section 378(3) Cr.P.C. seeking permission for leave to appeal against the respondents while challenging the impugned judgment dated 9.3.2016 passed by learned Judge, Special Court, Sangrur.

The applicants prays that such judgment passed by the learned Judge, Special Court, Sangrur be set aside by way of acceptance of the appeal and accused be convicted and sentenced in accordance with law.

Briefly stated, facts of the case are that complainant (name

not being mentioned to conceal her identity and referred to as '*the victim*') daughter of Bhola Singh, resident of near Markfed Office, Janta Nagar, Dhuri, a student of 10th class in Government Senior Secondary School, Dhuri Pind, while being admitted in Civil Hospital, Dhuri in an injured condition got her statement recorded with the police to the effect that on 10.4.2015 at about 7:45 p.m., her father Bhola Singh was returning home from the bazaar after getting the clothes ironed; that when her father reached at the main gate of their house, in the meantime, Gurdhian Singh Fauji armed with a hockey stick, his son Mandeep Singh alias Deepu and their neighbour Tarsem Singh, who is relative of Gurdhian Singh Fauji armed with *soti* started quarrelling with her father Bhola Singh abusing him loudly, hearing that she along with her mother Binder Kaur came out and tried to intervene; that Mandeep Singh @ Deepu with an intention to outrage her modesty tore her shirt from the neck. According to the complainant, when she raised her right hand to save herself, then Mandeep Singh inflicted multiple abrasions on her chest and right arm; that her parents raised alarm, hearing that many people from surrounding area gathered there and on their coming, all the assailants ran away from the spot along with their respective weapons and thereafter her mother removed her to Civil Hospital, Dhuri after arranging a vehicle. The motive behind the incident was that Tarsem Singh was nursing a grudge against them without any reason. After making the endorsement below such statement, ruqa was sent to the police station, on the basis of which, formal FIR for the offences under Sections 354-B, 323 read with Section 34 IPC was registered. The investigation in the case got started.

On 11.4.2015 Binder Kaur mother of the victim produced the torn shirt of the victim before the police, which was taken into possession. On 12.4.2015 an offence under Section 8 of the Protection of Children from Sexual Offences Act, 2012 was added. Accused Tarsem Singh and Gurdhian Singh alias Fauji were arrested in this case. Since weapons used in the incident were not got recovered, an offence under Section 201 IPC was added. Accused Mandeep Singh alias Deepu was also arrested. During the course of investigation, statement of the victim was got recorded under Section 164 Cr.P.C.

After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court.

On presentation of challan in the Court, copies of documents relied upon therein were supplied to the accused free of cost as provided under Section 207 Cr.P.C.

Learned Judge, Special Court, Sangrur finding that charge for offences under Sections 354-B read with Section Section 34 IPC, 323 IPC and Section 8 of the Protection of Children from sexual Offences, Act, 2012 was disclosed against the accused, charge-sheeted the accused for the said offences, to which, they pleaded not guilty and claimed trial. The case was fixed for evidence of the prosecution.

During the course of its evidence, the prosecution had examined as many as six witnesses, namely, victim (name withheld) as PW1, Binder Kaur as PW2, ASI Dilpreet Singh as PW3, Dr. Vijay Kumar Jindal (Retd.) as PW4, Lady ASI Shabnam as PW5 and ASI Jagdev Singh as PW6.

Statements of accused were recorded under Section 313 Cr.P.C. in which the accused while denying the incriminating circumstances appearing against them submitted that they are innocent and have been falsely involved in the case.

In defence evidence, accused examined Dr.Neha, EMO Civil Hospital, Dhuri as DW1, Dr.Parminder Kaur, MO, Civil Hospital, Dhuri as DW2, Constable Pritam Singh as DW3, HC Darshan Singh as DW4, Sham Singh as DW5, Malwinder Singh as DW6, Sukhbir Kaur as DW7.

After hearing arguments, the learned trial Court convicted Mandeep Singh @ Deepu for the offences under Sections 354 and 323 IPC observing that on 10.4.2015 in order to outrage the modesty of victim, he had torn her shirt and further caused injuries, whereas Gurdhian Singh @ Fauji and Tarsem Singh were acquitted holding that the prosecution had failed to prove beyond a shadow of reasonable doubt that at the time of occurrence they had shared any common intention with accused Mandeep Singh @ Deepu, which left the complainant/victim aggrieved and she and her mother Binder Kaur have approached this Court seeking special leave to appeal.

I have heard the learned counsel for the parties besides going through the records.

After hearing learned counsel for the applicants, I find that the judgment passed by the Court below is well reasoned one, based upon proper appraisal and appreciation of evidence and correct interpretation of law. There is no illegality or infirmity therein. The judgment is certainly not perverse and it cannot be said that it has been passed ignoring the

settled principles for adjudication of a criminal case.

Under the circumstances, the application seeking permission for leave to appeal does not have any merit and is dismissed accordingly.

21.8.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No