

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

CRA-S No.1408-SB of 2004
Date of decision: 22nd August, 2019

Jaswinder Singh & another

... Appellants

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Sanjeev Sharma, Advocate for the appellants.
Mr. Harbir Sandhu, Assistant Advocate General, Punjab
for the respondent/State.

FATEH DEEP SINGH, J.

The appellants Jaswinder Singh and Darbara Singh were tried in case bearing FIR No.41 dated 24.04.2000 under Sections 366-A, 376, 342, 34 IPC pertaining to Police Station Kurali and vide impugned judgment and order dated 18.05.2004 both the accused were found guilty for commission of offences under Sections 376(2)(g), 366-A, 342, 34 IPC and both were sentenced to undergo rigorous imprisonment for six months and to pay a fine of ₹ 100 each/- under Section 342 IPC and in default of payment of fine to further undergo rigorous imprisonment for one month. Under Section 366 IPC they were sentenced to undergo rigorous imprisonment for three years and to pay a fine of ₹ 200/- each and in default of payment of fine to further undergo rigorous imprisonment for six months. They were further sentenced under Section 376 IPC to undergo rigorous imprisonment for ten years and to pay an

fine of ₹ 200/- each, in default of payment of fine to further undergo rigorous imprisonment for six months each. The convicts appellants impugn over these findings, have come up in this appeal before this Court.

Heard Mr. Sanjeev Sharma, Advocate for the appellants; Mr. Harbir Sandhu, Assistant Advocate General, Punjab on behalf of the respondent/State and perused the records of the case.

The brief allegations that have come about in this case are levelled by the complainant, who happens to be mother of a minor girl aged around 12 years who is the victim in this case. The complainant claims that on 24.04.2000 around 9:00/10:00 a.m. accused Darbara Singh from their neighbourhood called the victim on the pretext that his daughter Rupri wants to see her and when the victim went to the house of the accused and did not return, the complainant along with her sister-in-law Manjeet Kaur went to the house of the accused and saw through the window that Darbara Singh was defiling the victim while his co-accused Jaswinder Singh alias Rama was holding the victim from her hands and had also placed his hand on her mouth. On raising of alarm, the accused ran away leading to registration of the present case the same very day.

Upon completion of investigations and necessary formalities of presentation of challan, when the accused pleaded not guilty to the trial, prosecution examined PW1 Smt. Sudarshan, Head Teacher of Govt. Primary School, PW2 Dr. Anupreet Gill, Medical Officer who conducted the medical examination of the victim, PW3 Dr. Raminder Singh, PW4 SI

Kartar Singh, PW5 Darshani Devi complainant, PW6 the victim, PW7 Ramesh Kumar, PW8 HC Bhajan Singh, PW9 Dr.Raju Dhir, PW10 Dr.Manmohan Singh, PW11 ASI Atul Soni, investigating officer of this case, PW12 Gian Chand Draftsman and PW13 V.K. Goel, then Judicial Magistrate 1st Class, Ropar. Prosecution proved the following documents during examination:-

Ex.PA school leaving certificate, Ex.PB MLR of the victim, Ex.PC and Ex.PD requests for medical examination, Ex.PC/1 and Ex.PD/1 endorsements of doctor, Ex.PE report of Chemical Examiner, Ex.PF opinion of the doctor after chemical examination, Ex.PG and Ex.PH medical examinations of accused, Ex.PG/1 and Ex.PH/1 requests for medical examination, Ex.P1 statement of the complainant, Ex.PJ endorsement of police, Ex.PK statement under Section 164 Cr.P.C., Ex.PK/1 endorsement of JMIC, Ex.PW7/A and Ex.PW8/A affidavits, Ex.PW11/A site plan, Ex.PW11/B recovery memo, Ex.PW11/C request for recording statement of the victim and Ex.PW12/A scaled site plan.

In their stand taken under Section 313 Cr.P.C., both the accused denied the allegations taking plea of false implication and in their defence examined DW1 Sital Singh, DW2 Jasbir Kaur and proved documents Ex.DB opinion of the radiologist, Ex.DC and Ex.DC/1 reports pertaining to the victim. It is consequent thereupon, the impugned findings have come about.

As is there in the custody certificates of the two appellants, convict Jaswinder Singh alias Rama was released from the jail on

06.11.2006 on completion of sentence after giving him benefit of remissions, whereas accused Darbars Singh was released from jail on 24.10.2006. As is there apparent from the records, both the accused were arrested on 02.05.2000 and remained in custody till the impugned judgment was passed on 18.05.2004. Upon filing of the appeal, this Court had suspended their sentences on 24.05.2011 and therefore, they have virtually undergone the entire sentences of imprisonment so awarded to them. As is there in the custody certificate, fine was paid at the jail gate thus, leaves no scope to adjudicate the present appeal on merits. Since the convicts appellants have already undergone the imprisonment so awarded to them and have also paid the fine amount and have been released from custody after completion of the period of incarceration and having undergone the entire sentence and thus, in the light of the same, present appeal has been rendered infructuous and is disposed off as such.

(FATEH DEEP SINGH)
JUDGE

August 22, 2019

rps

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No