

**In the High Court of Punjab and Haryana at Chandigarh**

**1. CRA-S-615-SB of 2005**  
**Date of Decision: 20.7.2019**

Jinder Singh @ Bittu .....Appellant

Versus

State of Punjab .....Respondent

**2. CRA-S-2175-SB of 2005**

Kuldeep @ Krishan Kumar .....Appellant

Versus

State of Punjab .....Respondent

**3. CRA-S-9-SB of 2006**

Raj Kumar @ Raju .....Appellant

Versus

State of Punjab .....Respondent

**CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present: Ms. Gurpal Kaur Dulat, Advocate  
Legal Aid Counsel for the appellants

Mr. H.S.Sullar, DAG, Punjab.

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**HARNARESH SINGH GILL, J**

This order shall dispose of above mentioned three appeals as

passed by the Additional Sessions Judge-cum-Fast Tract Court, Bathinda.

The appellants/convicts were tried for committing the offences under Sections 366, 376(2)(g), 342, 323, 392, 34 of the Indian Penal Code ('IPC' for short) in case FIR No. 133 dated 14.10.2002, registered at Police Station Raman. Vide judgment dated 18.12.2004, the learned Additional Sessions Judge, Bathinda found the appellants guilty for the offences under Sections 366/376(2)(g)/342/323/382/34 IPC and vide order of even date, they were sentenced as under:-

| <i>Name of the appellant(s)</i>                 | <i>Under Section</i> | <i>Sentence</i>                                                                                                                                                                           |
|-------------------------------------------------|----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Jinder Singh @ Bittu<br>Kuldeep @ Krishan Kumar | 376 (2) (g) IPC      | To undergo rigorous imprisonment for a period of 10 years and to pay a fine of Rs. 4,000/- each and in default of payment of fine to further undergo rigorous imprisonment for 06 months. |
| -do-                                            | 366 IPC              | To undergo rigorous imprisonment for a period of 05 years and to pay a fine of Rs. 1,000/- each and in default of payment of fine to further undergo rigorous imprisonment for 01 month.  |
| -do-                                            | 342 IPC              | To undergo rigorous imprisonment for a period of 01 year and to pay a fine of Rs. 500/- each and in default of payment of fine to further undergo rigorous imprisonment for 01 month.     |
| -do-                                            | 382 IPC              | To undergo rigorous imprisonment for a period of 05 years and to pay a fine of Rs. 2,000/- each and in default of payment of fine to further undergo rigorous imprisonment for 04 months. |
| -do-                                            | 323/34               | To undergo rigorous imprisonment for six months.                                                                                                                                          |

|                  |         |                                                                                                                                                                                      |
|------------------|---------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Raj Kumar @ Raju | 382 IPC | To undergo rigorous imprisonment for a period of 07 years and to pay a fine of Rs. 3,000/- and in default of payment of fine to further undergo rigorous imprisonment for 06 months. |
| -do-             | 366 IPC | To undergo rigorous imprisonment for a period of 05 years and to pay a fine of Rs. 1,000/- and in default of payment of fine to further undergo rigorous imprisonment for 04 months. |
| -do-             | 342 IPC | To undergo rigorous imprisonment for a period of 01 year and to pay a fine of Rs. 500/- and in default of payment of fine to further undergo rigorous imprisonment for 01 month.     |
| -do-             | 323/34  | To undergo rigorous imprisonment for six months.                                                                                                                                     |

Aggrieved of the said judgment and order, the appellants have preferred three separate appeals.

As per the prosecution case, the present FIR had been registered on the statement of Rajinder Singh alleging that there was a birthday ceremony of his sister's son, namely, Jaspreet Singh, aged five years, and in that connection, complainant Rajinder Singh along with his sister Satpal Kaur was distributing the invitation cards. When they reached village Raman, their motor cycle went out of order. The complainant had parked his motor cycle with the mechanic and taken the scooter of the mechanic to reach his village. When they were going towards village Bagha, one Maruti car of white colour came from the backside and struck against his scooter and as a result, they fell down. Three persons came out of the car and had started beating them and they had forced them to sit in the car. The

complainant and his sister had raised alarm. Thereafter, the convicts had thrown the complainant out of the car and taken his sister Satpal Kaur along. The complainant had tried to follow the car on the scooter but could not do so nor could he note down the number of the said car.

During investigation, Jinder Singh, Krishan Kumar and Raj Kumar @ Raju were named as accused on the basis of the statements suffered by Jassa Singh and Babu Singh. Statement of Satpal Kaur had been recorded wherein she stated that after throwing her brother out of the car, all the three accused had taken her in the fields and thereafter the driver of the car and a person with long height had committed rape upon her against her wishes. The person with short height had snatched her ring and ear-rings from her. Thereafter, they had taken her towards the city in the car and on the way, one person, who asked for a lift, was allowed to sit in the car. After covering some distance, the said person was taken out of the car and the person with short height, caught hold of his hands and the other person gave him kirpan blows, upon which the said person died at the spot and an amount of Rs. 5,000/- was taken out from his pocket. The said occurrence was witnessed by Satpal Kaur. Later, all of them had dropped her at village Pipli and after informing her parents, the offences under Sections 376, 382 IPC were added and the accused were arrested.

After completion of investigation and necessary formalities, challan was presented against the appellants-accused. The case was committed to the Sessions Court as the offence punishable under Sections 376 and 366 IPC were triable by the Court of Sessions.

Charges were framed against the appellants-accused under Sections 366, 376(2)(g), 342, 323, 392, 34 IPC on 17.9.2003 to which they

pleaded not guilty and claimed trial.

In order to prove its case, the prosecution had examined as many as 12 witnesses.

In the statement recorded under Section 313 Cr.P.C., the accused denied the charges and pleaded false implication. The accused did not examine any witness in their defence.

The trial Court, after taking into consideration the evidence on record and the statements of the prosecution witnesses, convicted and sentenced by the appellants, as recorded earlier. Hence, the present appeal.

I have heard learned counsel for the parties and have also gone through the records of the Courts below, with their able assistance.

Learned legal aid counsel appearing for the appellants has argued that the appellants had been falsely involved in the present case. It has been pointed out that there are discrepancies in the statements of complainant Rajinder Singh and the victim Satpal Kaur. As per complainant Rajinder Singh, he had been thrown out of the car and he had chased the car on his scooter but as per the statement of Satpal Kaur (PW-2), Rajinder Singh was thrown out of the car after some distance. Thus, as per the counsel for the appellants, since there was no vehicle available, Rajinder Singh had no occasion to chase the car. The version of prosecutrix Satpal Kaur has also been highlighted by the counsel for the appellants showing that as per her statement, she had been raped and thereafter, she had been put in the car again and taken towards the city where they had stopped at a petrol pump. Even at that stage the prosecutrix had not raised any alarm when the car was in a public place. As per the counsel, this conduct of the prosecutrix clearly shows that she was the consenting party. It has also

been pointed out that it is not believable that after committing rape, the prosecutrix was dropped at her village and, thus, the story concocted by the prosecutrix is highly improbable. Rather, as per the counsel for the appellants, the appellants were habitual offenders and the police being unable to trace the real culprits, had simply fastened another criminal case liability on the appellants.

Per contra, learned State counsel has argued that PW-1 Dr. Seema Gupta deposed that on 16.10.2002, she had been posted as Medical Officer, Rama where the prosecutrix (PW-2) had been brought for the medical examination by SHO, P.S. Rama. As per the medical record, there were injuries on her person. MLR Ex. PA was placed on record. It has been further argued that the prosecutrix had stepped into the witness box as PW-2. She stated that their scooter had been hit by a Maruti car from the backside and she along with her brother had been forced to sit in the car and after covering some distance, the convicts had thrown her brother out of the car. She had identified the convicts present in the Court. She had specifically disclosed the colour of the car as white and that the driver of the car was having a pistol whereas the other convicts were having kirpans with them and all of them had threatened to kill her. She further deposed that she had been forcibly taken into a plot covered with boundary walls where appellants-convicts Jinder Singh @ Bittu and Kuldeep @ Krishan Kumar had committed rape upon her against her wishes whereas appellants-accused Raj Kumar @ Raju had forcibly snatched a pair of tops and two gold rings from her. On the way back, a lift was given to a person standing on the roadside and after covering some distance, he was pulled out of the car and was stabbed to death and Rs. 5,000/- was taken from his pocket. It is further

argued that PW-3 Rajinder Singh complainant, brother of the prosecutrix, has duly supported the prosecution version.

After taking into consideration the facts and circumstances of the present case and the evidence on record, I am of the considered view that all these appeals are liable to be dismissed.

It is an incident where the modesty of a lady accompanying her brother had been wiped out. The appellants had violated the privacy and integrity of the prosecutrix and they had also caused serious psychological as well as physical harm on her person. Such type of incidents should be dealt with sternly and severely as it is a severe blow to the supreme honour of the prosecutrix by which it has been offended by her self-esteem and dignity. The act of the appellants have put a mental scar which will remain with the prosecutrix throughout her life as it is not a physical scar which can heal up.

It has already been held in the catena of judgments that the offence of rape in its simplest terms is 'ravishment of a woman, without her consent, by force, fear or fraud, or as the carnal knowledge of a woman by force against her will. Rape or raptus is when a man hath carnal knowledge of a women by force and against her will.

Any liberty attributed by imposing meagre sentence or taking too sympathetic view merely on account of the argument raised by counsel for the appellants in respect of such offences will be result-wise counter productive in the long run and against the social interest which needs to be cared for and strengthen the string of deterrence in-built in the sentencing system.

The Apex Court in ***State of Punjab versus Rakesh Kumar*** 2008(4) R.C.R. (Criminal) 142, has held as under:-

*“13. Imposition of sentence without considering its effect on the social order in many cases may be in reality a futile exercise. The social impact of the crime, e.g. where it relates to offences against women, dacoity, kidnapping, misappropriation of public money, treason and other offences involving moral turpitude or moral delinquency which have great impact on social order, and public interest, cannot be lost sight of and per se require exemplary treatment. Any liberal attitude by imposing meager sentences or taking too sympathetic view merely on account of lapse of time in respect of such offences will be result-wise counter productive in the long run and against societal interest which needs to be cared for and strengthened by string of deterrence inbuilt in the sentencing system.*

*14. In [Dhananjoy Chatterjee v. State of W.B.](#) (1994 (2) SCC 220), this Court has observed that shockingly large number of criminals go unpunished thereby increasingly, encouraging the criminals and in the ultimate making justice suffer by weakening the system's creditability. The imposition of appropriate punishment is the manner in which the Court responds to the society's cry for justice against the criminal. Justice demands that Courts should impose punishment befitting the crime so that the Courts reflect public abhorrence of the crime. The Court must not only keep in view the rights of the criminal but also the rights of the victim of the crime and the society at large while considering the imposition of appropriate punishment.”*

Even otherwise as per the custody certificates, the appellants had been involved in other criminal cases also. As per the custody certificate of Appellant Jinder Singh-Bittu, has also been convicted and

sentenced in several other FIRs, details of which are as under:-

| <i><b>Sr.<br/>No.</b></i> | <i><b>FIR<br/>number</b></i> | <i><b>Date</b></i> | <i><b>Section(s)</b></i>                       | <i><b>Police Station</b></i>  |
|---------------------------|------------------------------|--------------------|------------------------------------------------|-------------------------------|
| 1.                        | 545/1997                     | N/A                | 380 IPC                                        | City Dabwali, Sirsa           |
| 2.                        | 15/1998                      | 1.2.1998           | 457, 380 IPC                                   | City Budhlada,<br>Mansa       |
| 3.                        | 08/1998                      | 13.1.1998          | 457, 380 IPC                                   | Bhikhi, Mansa                 |
| 4.                        | 52/1997                      | 5.9.1997           | 457, 380 IPC                                   | City Budhlada,<br>Mansa       |
| 5.                        | 21/1998                      | 7.1.1998           | 457, 380 IPC                                   | Kalanwali, Sirsa              |
| 6.                        | 577/2002                     | 23.8.2002          | 457, 380 IPC                                   | City Sirsa, Sirsa             |
| 7.                        | 841/1997                     | 8.9.1997           | 457, 380 IPC                                   | City Sirsa, Sirsa             |
| 8.                        | 102/1998                     | 23.1.1998          | 457, 380 IPC                                   | City Sirsa, Sirsa             |
| 9.                        | 39/1998                      | 28.1.1998          | 457, 380 IPC                                   | City Tohana,<br>Fatehabad     |
| 10.                       | 70/1998                      | 5.2.1998           | 457, 380 IPC                                   | City Fatehabad,<br>Fatehabad  |
| 11.                       | 497/1997                     | 4.9.1997           | 457, 380 IPC                                   | Ratia, Fatehabad              |
| 12.                       | 9/1997                       | 3.1.1997           | 411 IPC                                        | Kalanwali, Sirsa              |
| 13.                       | 414/1994                     | 14.11.1994         | 457, 380, 411<br>IPC                           | City Sirsa, Sirsa             |
| 14.                       | 343/1994                     | 31.12.1994         | 457, 380 IPC                                   | City Dabwali, Sirsa           |
| 15.                       | 215/2000                     | 16.11.2000         | 411 IPC                                        | Kalanwali, Sirsa              |
| 16.                       | 150/2002                     | 15.9.2002          | 379 IPC                                        | Kalanwali, Sirsa              |
| 17.                       | 25/1995                      | 22.1.1995          | 411 IPC                                        | City Sirsa, Sirsa             |
| 18.                       | 15/1995                      | 16.1.1995          | 457, 380 IPC                                   | City Sirsa, Sirsa             |
| 19.                       | 22/1995                      | 19.1.1995          | 457, 380 IPC                                   | City Sirsa, Sirsa             |
| 20.                       | 12/1995                      | 12.1.1995          | 25 of the Arms<br>Act                          | City Sirsa, Sirsa             |
| 21.                       | 227/2001                     | 13.5.2001          | 223, 224, 120-B<br>IPC & 25 of the<br>Arms Act | Kotwali Bathinda,<br>Bathinda |
| 22.                       | 470/2002                     | 8.10.2002          | 379 IPC                                        | Kotwali Bathinda,<br>Bathinda |
| 23.                       | 174/2002                     | 4.10.2002          | 392, 411, 34                                   | Lambi, Sri Muktsar<br>Sahib   |
| 24.                       | 69/2002                      | 25.10.2002         | 411 IPC                                        | Mahil Kalan,<br>Barnala       |
| 25.                       | 167/2002                     | 2.9.2002           | 489-B IPC                                      | City-1, Mansa,<br>Mansa       |
| 26.                       | 626/2002                     | 18.9.2002          | 380, 457 IPC                                   | City Sirsa, Sirsa             |

|     |          |            |                                             |                     |
|-----|----------|------------|---------------------------------------------|---------------------|
| 27. | 143/2002 | 31.10.2002 | 399, 402, 411, 412 IPC & 25 of the Arms Act | Raman, Bathinda     |
| 28. | 225/2002 | 15.10.2002 | 302, 201, 34 IPC                            | City Dabwali, Sirsa |

Similarly, as per the custody certificates of appellants Krishan Kumar @ Kuldeep and appellant Raj Kumar @ Raju, they had also been convicted and sentenced in several other FIRs, details of which are as under:-

**Appellant Krishan Kumar @ Kuldeep:-**

| <i><b>Sr. No.</b></i> | <i><b>FIR number</b></i> | <i><b>Date</b></i> | <i><b>Section(s)</b></i> | <i><b>Police Station</b></i> |
|-----------------------|--------------------------|--------------------|--------------------------|------------------------------|
| 1.                    | 143/2001                 | 20.11.2001         | 382 IPC                  | Tappa, Barnala               |
| 2.                    | 150/2002                 | 15.9.2002          | 379 IPC                  | Kalanwali, Sirsa             |
| 3.                    | 26/2000                  | 17.6.2000          | 379 IPC                  | GRP Sirsa, Sirsa             |
| 4.                    | 143/2003                 | 31.10.2003         | 399, 402, 412 IPC        | Raman, Bathinda              |
| 5.                    | 177/1999                 | 23.10.1999         | 454, 457, 511 IPC        | Kalanwali, Sirsa             |
| 6.                    | 639/2002                 | 27.9.2002          | 380, 457 IPC             | City Sirsa, Sirsa            |
| 7.                    | 626/2002                 | 18.9.2002          | 380, 457 IPC             | City Sirsa, Sirsa            |
| 8.                    | 255/2002                 | 30.9.2002          | 382/34 IPC               | Sadar Sirsa, Sirsa           |
| 9.                    | 174/2002                 | 4.10.2002          | 392, 411, 34 IPC         | Lambi, Sri Muktsar Sahib     |
| 10.                   | 69/2002                  | 25.10.2002         | 411 IPC                  | Mahil Kalan, Barnala         |
| 11.                   | 225/2002                 | 15.10.2002         | 302, 34 IPC              | City Dabwali, Sirsa          |

**Appellant-Raj Kumar @ Raju:-**

| <i><b>Sr. No.</b></i> | <i><b>FIR number</b></i> | <i><b>Date</b></i> | <i><b>Section(s)</b></i>   | <i><b>Police Station</b></i> |
|-----------------------|--------------------------|--------------------|----------------------------|------------------------------|
| 1.                    | 26/2000                  | 17.6.2000          | 379 IPC                    | GRP Sirsa, Sirsa             |
| 2.                    | 221/2002                 | 9.10.2002          | 380 IPC                    | City Dabwali, Sirsa          |
| 3.                    | 150/2002                 | 15.9.2002          | 379 IPC                    | Kalanwali, Sirsa             |
| 4.                    | 69/2002                  | 25.10.2002         | 392 IPC and 25 of Arms Act | Mahil Kalan, Barnala         |

|    |          |            |                                                |                      |
|----|----------|------------|------------------------------------------------|----------------------|
| 5. | 143/2002 | 31.10.2002 | 399, 402, 411, 412, 420 IPC and 25 of Arms Act | Raman, Bathinda      |
| 6. | 189/2002 | 15.10.2002 | 382 IPC                                        | Sadar Dabwali, Sirsa |
| 7. | 626/2002 | 18.9.2002  | 380, 457, 411 IPC                              | City Sirsa, Sirsa    |
| 8. | 255/2002 | 30.9.2002  | 382, 34 IPC                                    | Sadar Sirsa, Sirsa   |
| 9. | 225/2002 | 15.10.2002 | 302, 34 IPC                                    | City Dabwali, Sirsa  |

A perusal of the custody certificates shows that the appellants are hard-core criminals. A number of FIRs had been registered against them and they had been convicted and sentenced in those cases. Keeping in view the above facts and circumstances, the trial Court has rightly convicted and sentenced the appellants qua commission of offence punishable under Sections 366, 376(2)(g), 342, 323, 382, 34 IPC.

In view of the above, finding no merits in these appeals, the same are hereby dismissed.

**(HARNARESH SINGH GILL)**  
**JUDGE**

**July 20, 2019**  
**Gurpreet**

**Whether speaking/reasoned : Yes**  
**Whether reportable : Yes**