

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

101

CRR-2992-2009

Date of Decision:26.08.2019

Paramjit Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

**Present: Mr. T.S. Chauhan, Advocate,
for the petitioner.**

Mr. Saurav Khurana, DAG, Punjab.

**Mr. Satnam Preet Singh, Advocate,
for the complainant.**

HARI PAL VERMA, J.(oral)

The petitioner has filed the present criminal revision against the judgment dated 06.11.2009 passed by learned Additional Sessions Judge, SAS Nagar, Mohali whereby his appeal against the judgment of conviction and order of sentence dated 13.11.2007 passed by learned Sub Divisional Judicial Magistrate, SAS Nagar, Mohali, was dismissed though with the modification in the sentence.

Briefly stated, FIR No. 451 dated 1.11.2003, under Sections 354, 506 IPC was registered against the petitioner at Police Station, Mohali at the behest of the complainant Harjinder Kaur. As per the FIR, on 1.11.2003, ASI Piara Singh along with other police officials was on

patrolling duty and was present in Scooter Market, Phase VII, Mohali. Harjinder Kaur(complainant) moved an application before ASI Piara Singh to the effect that on 01.11.2003 she had gone to Deep Clinical Laboratory, SCO 9, Phase VII, Mohali to have some lab tests in the evening along with her daughter and maternal grand daughter, aged about 6 years. Complainant went to the ECG room along with her maternal grand daughter and was made to lay down on the table by the petitioner-accused. He attached the instruments on her body and asked her to take rest. In the meantime, she heard the noise of her grand daughter and noticed that the petitioner accused had put his hand in the underwear of her grand daughter and had lowered down his trouser. Upon raising alarm, the accused withdrew his hand from the underwear of her grand daughter and raised his trouser. The accused threatened the complainant to kill her if she ever reported the matter to anybody. Upon receipt of the complaint, the case was registered and the investigation was carried out. The accused was arrested on 12.11.2003.

After completion of investigation, report under Section 173 Cr.P.C. was filed in the Court. The copy of the challan along with other documents was supplied to the accused, as envisaged under Section 207 Cr.P.C. Finding a prima facie case against the petitioner, he was charge sheeted under Sections 354, 506 IPC, to which he pleaded not guilty and claimed trial.

After recording the evidence and hearing arguments, learned trial Court vide judgment dated 13.11.2007 held the petitioner guilty and convicted him under Section 354, 506 IPC. Vide separate order of even date, the petitioner was sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/-, and in default thereof, to

further undergo rigorous imprisonment for 15 days each under Sections 354, 506 IPC.

Aggrieved against the judgment of conviction and order of sentence dated 13.11.2007 passed by the trial Court, the petitioner filed an appeal before the Court of Session. The appeal was dismissed by the learned Additional Sessions Judge, SAS Nagar, Mohali vide impugned judgment dated 06.11.2009 with the modification in the sentence which was reduced from one year to six months under both the offences under Sections 354, 506 IPC.

It is in these circumstances, the petitioner has filed the present criminal revision.

Learned counsel for the petitioner has argued that the impugned judgments passed by the learned Courts below suffer from legal infirmities and are against evidence as produced on record. The FIR was registered against the petitioner with an oblique motive. The story as projected by the complainant was liable to be disbelieved as neither her daughter nor maternal grand daughter(victim) have appeared in the witness box so as to corroborate the statement of the complainant. As per evidence of PW1- Harjinder Kaur, she had gone to the police Station at about 6.30 PM for registration of the case, whereas it is in the evidence of PW5-ASI Piara Singh that the complainant had met him in the scooter market, Phase VII, Mohali, whereas the daughter of the complainant who was present at the alleged scene of occurrence was a natural witness and relevant one. It is only the victim she could explain the occurrence, but none have been examined. According to the learned counsel, as against the awarded sentence of six months, the petitioner has remained in custody for about two

months.

On the other hand, learned State counsel as well as learned counsel for the complainant have argued that apart from the fact that jurisdiction of the revisionary Court is very limited, there is no illegality in the impugned judgments passed by the Courts below. Conviction is completely sustainable on the basis of statement made by the complainant.

Heard learned counsel for the parties.

This is the case where the prosecution has failed to examine the victim and the daughter of the complainant despite the fact that both were reportedly present at the scene of the alleged occurrence. Except the statement of the complainant who had gone for ECG test at the Clinical laboratory, no other witness has been examined, so as to corroborate the case of the prosecution that the petitioner has committed the offence as detailed in the FIR. Further, the petitioner has been convicted on the sole testimony of complainant-Harjinder Kaur and no explanation whatsoever had come on record for non-examination of her daughter (Ravinder Kaur) and maternal grand daughter (Sharry), who is victim of the case, Moreover, there is medical evidence to support the case of prosecution.

Though the scope of interference in the revisional jurisdiction is very limited, but considering the material contradictions in the statement of the complainant, this Court is sufficiently satisfied that the story propounded by the complainant is not fully proved. Non-examination of daughter of complainant, and the victim in the case is quite fatal.

Therefore, while allowing the present criminal revision, the petitioner is acquitted of the charge framed against him and the impugned judgment of conviction and order of sentence dated 13.11.2007 passed by

the trial Court as well as the impugned judgment dated 06.11.2009 passed by the appellate Court are hereby set aside.

August 26, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No