

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-1271-SB-2003
Decided on : 24.02.2020

Angrej Singh and others

... Appellant(s)

Versus

State of Haryana

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. S.S. Dinarpur, Advocate and
Mr. Arun Sharma, Advocate
for the appellant(s).

Mr. Ashish Sanghi, DAG, Haryana.

MANJARI NEHRU KAUL, J.

1. The instant appeal has been preferred against the judgment of conviction dated 21st May, 2003 and order of sentence dated 26th May, 2003, whereby, the appellant(s) were convicted and sentenced as under : -

<i>Name of Convict(s)</i>	<i>Offence(s)</i>	<i>Period of sentence(s)</i>	<i>Fine(s) imposed</i>	<i>Period of sentence(s) of default payment of fine(s)</i>
1. Angrej Singh 2. Banta @ Jaswant 3. Raghubir	376(2)(g) IPC	Rigorous Imprisonment (RI) for 10 years each	₹ 1000/- each	RI for one month each
1. Angrej Singh 2. Banta @ Jaswant 3. Raghubir	366/34 IPC	Rigorous Imprisonment (RI) for 05 years each	₹ 500/- each	RI for 15 days each
1. Angrej Singh 2. Banta @ Jaswant 3. Raghubir	323/34 IPC	Rigorous Imprisonment (RI) for 01 year each	₹ 200/- each	RI for 07 days each

<i>Name of Convict(s)</i>	<i>Offence(s)</i>	<i>Period sentence(s) of</i>	<i>Fine(s) imposed</i>	<i>Period sentence(s) of default payment of fine(s)</i>
<i>Angrej Singh</i>	<i>324 IPC</i>	<i>Rigorous Imprisonment (RI) for 02 years</i>	<i>₹ 200/-</i>	<i>RI for 07 days</i>

All the sentences were ordered to run concurrently.

2. The prosecution case as set up during investigation is that on 20th February, 2002 at about 02:30 P.M., when the prosecutrix was returning to her house after answering the call of nature, appellants Banta and Angrej forcibly took her to the sugarcane fields, where appellant Angrej committed rape upon her. Soon thereafter, appellants Banta, Raghubir and one other person came to the spot and when appellant Raghubir also tried to rape the prosecutrix, she raised an alarm. Thereupon, appellant Angrej took out a knife from his pocket and inflicted a knife injury on the palm of the prosecutrix. Not only this, appellant Angrej also threatened her of dire consequences in case she dared to raise an alarm again. However, on a hue & cry raised by the prosecutrix, people working in the nearby 'brick kiln' were attracted to the spot. On seeing those persons coming, the appellants fled away. The prosecutrix narrated the entire occurrence to her husband when he returned home later in the evening. Thereafter, the complainant went to the police station for getting her complaint recorded, leading to the registration of FIR Ex.PD under Sections 376, 323, 324, 506, 34 IPC.

3. Subsequently, the prosecutrix was medico legally examined at Civil Hospital, Ambala. The accused-appellant Angrej was arrested and was also medico legally examined at the Civil Hospital, Ambala.

Statements of the witnesses were recorded. On completion of investigation, challan was presented. Charges were framed against the appellants under Sections 376(g), 324, 323, 506, 366/34 IPC, to which they pleaded not guilty and claimed trial. The prosecution in support of their case examined as many as ten witnesses including the prosecutrix, who stepped into the witness-box as PW-5 and Dr. Shashi Tripathi as PW-8, who medico legally examined the prosecutrix. The prosecutrix in her testimony as PW-5 reiterated her allegations against all the appellants. When examined under Section under 313 Cr.P.C., the appellants pleaded innocence & false implication.

4. On a perusal of the evidence and other material on record, the trial Court convicted the appellants and sentenced them as already detailed hereinabove.

5. Learned counsel for the appellants has vehemently argued that on the face of it, it was a case of false implication on account of some previous animosity between the parties. It was further argued that no injury was found on the person of the prosecutrix, which demolished the case of the prosecution *qua* the factum of her having been raped by the appellants. It was, thus, submitted that all the aforementioned circumstances when seen in totality coupled with the delay in the registration of the FIR and non-examination of the persons, who were attracted to the spot on the alarm allegedly raised by the prosecutrix, left no manner of doubt that a false case had been planted upon the appellants.

6. Learned State counsel on the other hand vehemently opposed the submissions made by the learned counsel for the appellants. It was

submitted that no woman would falsely implicate a person on charges of rape by putting her reputation at stake. It was further submitted that there was enough medical evidence to corroborate the factum of the prosecutrix having been violated by the appellants. Hence, he prayed for dismissal of the instant appeal.

7. I have heard learned counsel for the parties and have minutely reappraised the evidence as well as other material available on record.

8. In the case in hand, the appellants forcibly took the prosecutrix/PW-5 inside the sugarcane fields, where, appellant Angrej committed rape upon her. After he had satisfied his lust, appellant Raghubir too tried to rape the prosecutrix. While she was putting up resistance to ward off the rape attempt by appellant Raghubir, appellant Angrej inflicted a knife blow on her palm and threatened her with dire consequences. This part of the testimony of the prosecutrix finds total corroboration from the medical evidence as well. In fact, the resistance put up by the prosecutrix is borne out and proved by the abrasions and bruises, which were noticed by PW-8 Dr. Shashi Tripathi, when she medico legally examined the prosecutrix on 20.02.2002 at about 02:00 P.M. The injuries suffered by the prosecutrix and as noticed by PW-8, Dr. Shashi Tripathi, are reproduced as under:-

- “1. Insisted wound on the web space of ring and little finger left hand extending to the palm 3.5 cm x .5 cm clotted blood was present.*
- 2. Bluish bruise on the anterial and lateral aspect of left shoulder 10x5 cm.*

3. *Bruise present on the whole of the gluteal region (back both sides) bluish in colour.*
4. *Bruise present on the anterior aspect of the thigh's (right and left) above knee lower one third.*
5. *Bluish bruise present on the anterior aspect of the right lower leg above ankle. Bluish bruise L.M.P. - 12 December 2001. G1-P1 5 years male."*

9. Corroboration is not a prerequisite for a conviction in a rape case. More often than not in a society like ours in India, the fear of being levelled as unchaste or even being ostracized would always haunt a victim of sexual assault. Hence, if a victim still musters the courage to report against the perpetrators of a crime of this nature and later on recapitulates her version during the trial, it would be rubbing salt in the wound by discarding her version and insisting on corroboration. While evaluating the testimony of a victim of sexual assault, the Court must exercise the same degree of care and caution, as it would in the case of a stamped witness in an injury case. No doubt, if the version of the prosecutrix comes across as unnatural and lacks credibility then Court's insistence on corroborative evidence would be justified. However, adverting to the case in hand, there is nothing on record to disbelieve the testimony of the prosecutrix. Rather, as already noticed above, there is sufficient corroborative medical evidence in the form of not only an injury on the palm of the prosecutrix, but also on various parts of her body, which goes a long way to conclusively prove that she is a truthful witness. Thus,

there would be no justification to question the trustworthiness of her testimony. Coming to the contention of the learned counsel for the appellants regarding the delay in the lodging of the FIR, I do not find any substance in the same. It has come in the evidence that the husband of the prosecutrix was told about the occurrence in hand after he returned home in the evening from his work. It was on the following morning that the FIR was lodged. In an offence of such a nature even if there is some delay in the lodging of the FIR, it would be of no relevance. Further, the non-examination of the persons, who were attracted to the spot when the prosecutrix raised an alarm too is totally inconsequential in the circumstances.

10. As a sequel to the above discussion, no interference is warranted in the impugned judgment of the learned trial Court, which deserves to be upheld, as the same is a well reasoned one. Consequently, the instant appeal stands dismissed. Accused-appellants are on bail, their bail bonds/surety bonds stand cancelled. Necessary steps be taken to secure their custody.

(MANJARI NEHRU KAUL)
JUDGE

February 24, 2020

J.Ram

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No