

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

CRA-S-724-SB-2004 (O&M)

Date of Decision: January 08, 2020

Manjit Singh

...Appellant

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Harjot Singh Bedi, Advocate
for the appellant.

Mr. Sidakmeet Singh Sandhu, AAG Punjab.

JAISHREE THAKUR, J. (Oral)

1. The instant criminal appeal has been filed against the judgment and order dated 17.03.2004 passed by the Additional Sessions Judge, Amritsar whereby, the appellant has been convicted and sentenced to undergo rigorous imprisonment for a period of 03 years and to pay fine ₹ 2000/- under Section 376 read with Section 511 of Indian Penal Code and in default of payment of fine, to undergo further rigorous imprisonment for a period of two months in case FIR No.372 dated 17.12.2001, registered under Sections 376, 506 of Indian Penal Code at Police Station Sadar, Amritsar.

2. The case of the prosecution finds its origin from the statement given by Gian Kaur wife of Rattan Singh to the police to the effect that on

the intervening night of 11/12.12.2001, her daughter-in-law Kulwinder Kaur fell ill. On 12.12.2001, she took her daughter-in-law to Dr. Manjit Singh son of Narinder Singh, resident of Gali No.3, Indira Colony, Mustafabad, Amritsar for treatment. Dr. Manjit Singh examined her daughter-in-law in her presence while laying her on the bench in the cabin. After examining her, Dr. Manjit Singh told that she would have to be injected. Kulwinder Kaur said that he should give her some medicine and not injection, but on this, the doctor said in a loud voice that it was he who was the doctor and not she. Dr. Manjit Singh gave her a slip for the purchase of medicine and sent her to fetch the same. When she returned with the medicine in about 15 minutes, she found that 'Salwar' of her daughter-in-law had been removed and Dr. Manjit Singh was found committing sexual intercourse with her daughter-in-law Kulwinder Kaur against her wishes. Kulwinder Kaur was in semi-conscious condition and she was moving her legs and arms. She raised hue and cry. Dr. Manjit Singh fled away by giving threats to kill her as well as Kulwinder Kaur. Thereafter, the matter was reported to the police.

3. On the basis of aforesaid statement, the instant case FIR was registered. During investigation, the accused was arrested and his personal search memo was prepared. On completion of investigation, challan against the accused was presented in court.

4. Copies of the challan and documents were supplied to the accused free of cost as envisaged under Section 207 Cr.P.C. Thereafter, the case was committed to the Court of Sessions for trial. The accused was charge-sheet under Section 376 of the Indian Penal Code, to which he

pleaded not guilty and claimed trial.

5. During trial, prosecution has examined complainant-Gian Kaur as PW1, Kulwinder Kaur, prosecutrix as PW2, Dr. Jaswinder Kaur, Gynecologist as PW3, ASI Kishori Lal, Investigating Officer as PW4, Const. Diensh Kumar as PW5, HC Paramjeet Singh as PW6 and thereafter, evidence of the prosecution was closed. Thereafter, statement of the accused was recorded under Section 313 C.P.C., in which all the incriminating circumstances appearing against him were put to him, but he denied the same and pleaded innocence and false implication. In his defence, the accused examined Randhir Singh as DW1, who was posted as Incharge of Police Post Vijay Nagar on 12.12.2001.

6. After hearing learned counsel for both the sides, the trial court convicted the accused under Section 376 read with Section 511 of Indian Penal Code, as reflected above.

7. Mr. Harjot Singh Bedi, learned counsel appearing on behalf of the appellant has not assailed the judgment of conviction and order of sentence, however, he prayed for reduction in the quantum of sentence to the period already undergone by him, while relying upon judgments rendered in **Sohan Lal vs. State of Punjab, 1979 CLJ (Criminal) 113** and **Balwinder Singh vs. State of Punjab, CRR No.2574 of 2012 decided on 31.10.2012.**

8. Mr. Sidakmeet Singh Sandhu, learned AAG appearing on behalf of the respondent-State submits that out of the total sentence of 03 years, the appellant has already undergone 02 years, 08 months and 28 days.

9. I have heard learned counsel for the parties.

10. This court in the case of **Sohan Lal's case(supra)** wherein the accused was first time offender and had undergone the sentence of 3 ½ months, reduced his sentence to the period already undergone by him. Similarly, in the case of **Balwinder Singh's case (supra)**, this court reduced the sentence of the accused therein. In the case in hand, the appellant has already undergone 02 years, 08 months and 28 days, out of the total sentence of 03 years. Keeping in view the peculiar facts and circumstances of the present case, the sentence of the appellant is reduced to the period already undergone by him. However, the fine imposed upon the appellant by the trial court shall remain intact. The appellant is stated to be on bail, as his sentence was suspended by an order dated 07.12.2004.

11. With the aforesaid modification in the quantum of sentence, the appeal stands dismissed.

January 08, 2020
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No