

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CRM-A-2020-2019

Date of Decision : 04.12.2023

SHIKHA

.....Appellant

Versus

NIRANJAN SINGH @ NAI AND ANOTHER

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present : Mr. Gaurav Sharma, Advocate
for the appellant.

Ms. Monika Jalota, Sr. DAG, Punjab
for respondent No. 2- State.

SURESHWAR THAKUR, J. (Oral)

1. The instant appeal is directed against the impugned verdict, rendered on 13.08.2019, upon case SC/33/2017, by the learned Sessions Judge, Barnala, with respect to charges drawn against the respondent No. 1-accused, qua offences punishable under Sections 376/34 of the Indian Penal Code, 1860, whereby, a verdict of acquittal was made upon respondent No. 1.

2. The complainant-aggrieved, through instituting thereagainst, the instant application before this Court, has strived to seek the verdict (supra) becoming quashed, and, set aside.

FACTUAL BACKGROUND

3. The prosecution case, in nut shell, is that instant FIR is registered on the statement of prosecutrix got recorded by her with the police on 15.07.2016, inter-alia, alleging that she does house hold work and is educated up to 10+2 and can understand her good and bad. In the year 2000, her marriage was solemnized with Neetu and from the said wedlock, one son aged about 14 years and one daughter aged about 13 years were born. Geeta Rani wife of Bittu Singh is residing in her neighbourhood with whom she had visited one or two times Gurudwara Sahib situated near the canal known as Khere Wali to pay obeisance and had reached back safely. On 04.06.2016, Geeta Rani took her from her house on the pretext that they have to go to Gurudwara Sahib on Khere Wali canal to pay obeisance and they took the bus at about 6.30 am from Barnala and reached Gurudwara Sahib. When they were returning after paying obeisance, Niranjn Singh son of Gurmukh Singh resident of Barnala alongwith one another person to whom Geeta Rani was calling by the name of Harbans Singh, met them outside the Gurudwara Sahib. Geeta Rani told her to accompany them up to Barnala, upon which, she replied her that she is not on good terms with Niranjn Singh and that some untoward incident may happen. However, Geeta Rani took responsibility, upon which, she boarded the vehicle. Thereafter Geeta Rani told that they had lot of time with them and that they should go to her parental house at Jalandhar. On the way, she felt thirsty and vehicle was halted and they provided lemon water to her and after drinking the same, she felt uneasy. Thereafter, they reached Jalandhar at parental house of Geeta Rani where tea was served to her and they drunk tea. She did not know what was in the tea and she fell

on the bed. Geeta Rani took her near the vehicle and they started returning back. On the way, she heard Niranjana Singh was telling Geeta Rani that she should take Rs.30,000/- as per settlement and she should proclaim in the area that she (prosecutrix) voluntarily run away with Niranjana Singh. Thereafter she did not know where Geeta Rani had gone and on which way they both took her. She came to know that she reached Jaipur. They used to take her in Nano car and used to stay with her in different hotels in different cities. Niranjana Singh used to commit rape on her person by administering her some intoxicant substance. For the last 15 days, Niranjana Singh took a room on rent in Ganganagar (Rajasthan) and kept her there. On 14.07.2016, when Niranjana Singh had gone to market, she escaped and reached at her parental place at Jagraon and narrated the incident to her mother and brother.

INVESTIGATION PROCEEDINGS

4. On the basis of the statement of the prosecutrix, formal FIR was registered against accused Niranjana Singh, Harbans Singh and Geeta Rani, whereupon, the investigation was set into motion.
5. During investigation, accused Geeta Rani and Harbans Singh were found innocent.
6. After completion of investigation(s), report under Section 173 Cr.P.C. was prepared and presented in the Court of Magistrate on 07.04.2017 against the accused.

COMMITTAL COURT PROCEEDINGS

7. As the offence under Section 376 IPC was exclusively triable by the Court of Session, therefore, the learned committal Court, committed vide order dated 17.04.2017, the case for trial, to the Court

of the learned Sessions Judge, Barnala.

TRIAL COURT PROCEEDINGS

8. On finding a prima facie case, charge under Section 376 IPC became framed, against the accused, and, to which he pleaded not guilty, and, claimed trial.

9. In support of the prosecution case, the prosecution examined seven witnesses. After completion of recording of the depositions of the prosecution witnesses, the learned Sessions Judge, Barnala drew proceedings, under Section 313 of the Cr.P.C., but therein, the accused claimed false implication, and, pleaded innocence. In his defence, the accused examined two witnesses.

10. After conclusion of the trial, as, became entered upon the FIR (supra), by the learned Sessions Judge, Barnala, the latter proceeded to make the afore verdict of acquittal against the accused.

INFERENCE OF THIS COURT.

11. For the reasons to be assigned hereinafter, this Court does not find, any reason to interfere with the verdict (supra).

12. The primary reason for concurring with the verdict (supra) becomes sparked from the factum, that during the ordeal of a rigorous cross-examination, being made upon the prosecutrix, she admitted that during the period from 04.06.2016 to 14.07.2016, she constantly remained in touch with her brother and son. Consequently, when during the said period, she could have reported the matter to the police, through her brother or her son, however, she refrained from doing so. Therefore, when she restrained herself from doing so, whereupon, the belated unexplained delay in the lodging of the FIR, against the

accused, does make the FIR to be carrying a concocted and pre-mediated version qua the crime event.

13. Further, in her cross-examination, she has admitted that she stayed with the accused at different hotels at different times, wherein, she got clicked her photographs alongwith the accused, yet with her consent and free will.

14. Further, when in her cross-examination, an admission occurs, qua during her stay with the accused at different places, hers finding security guards at hotels, besides hers also encountering even police officials, but yet hers not complaining to any of them, thereby they personify, that the prosecutrix consensually joined the company of the accused, and, further that she was a consenting partner, to hers being allegedly subjected to sexual intercourse.

15. Also, from a reading of her cross-examination, it appears, that the prosecutrix stayed with the accused in a rented accommodation, and that when the accused, proceeded for work, thus the prosecutrix remaining alone in the rented house of the accused. If the accused had kept the prosecutrix forcibly, thereupon, the prosecutrix could have easily escaped or raised an alarm, to ensure hers becoming released from the alleged captivity of the accused. However, she did not protest against hers staying alongwith the accused in the rented accommodation, thereby too, it appears that she was consensually staying with the accused, and, further that she was a consenting party to the accused, thus, in the latter allegedly subjecting her to sexual intercourse(s).

16. Further, on a reading of the testimony of the prosecutrix, it

is revealed, that the prosecutrix came to District Court Complex, at Barnala on 05.07.2016, 08.07.2016 and 11.07.2016, in connection with his divorce case, which she had filed against her husband. The said fact shows that the prosecutrix was never kept in captivity and rather she was free to go anywhere.

17. All the above show that the prosecutrix was a consenting party and there was no force used upon the prosecutrix.

FINAL ORDER BY THIS COURT

18. In view of the above discussion, this Court finds no merit in the application, and, is constrained to dismiss it. The impugned verdict of acquittal, as made upon the respondent No. 1, is maintained, and, affirmed.

19. The case property, if any, be dealt with in accordance with law, after the expiry of period of limitation for the filing of an appeal. The records be forthwith sent down.

(SURESHWAR THAKUR)
JUDGE

04.12.2023

kavneet singh

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No