

CRA-S-2182-SB-2014

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-2182-SB-2014
Reserved On: 27.09.2024
Pronounced On: 04.10.2024

SHYAM SUNDER

... Appellant

Vs.

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sanjeev Sharma, Advocate (Legal Aid Counsel)
For the appellant

Mr. Vikas Bhardwaj, AAG, Haryana

HARPREET SINGH BRAR, J.

1. The present appeal is preferred against the judgment of conviction dated 10.02.2014 and order of sentence dated 11.02.2014 passed by the learned Additional Sessions Judge, Gurgaon in FIR No. 302 dated 09.06.2013 registered under Sections 354, 363, 376, 511 of IPC & Section 3 of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 at Police Station- Manesar, Gurgaon. The appellant was sentenced as follows:

Section	Sentence
363 IPC	Rigorous imprisonment for 3 years and a fine of Rs. 5,000/-. Further 5 months R.I. in case of default.
354 IPC	Rigorous imprisonment for 3 years and a fine of Rs. 5,000/-. Further 5 months R.I. in case of default.
10 POCSO	Rigorous imprisonment for 5 years and a fine of Rs. 10,000/-. Further 10 months R.I. in case of default.

**CRA-S-2182-SB-2014****-2-**

2. Succinctly, the facts are that on 09.06.2013, a telephonic message was relayed to the concerned police qua molestation of one girl in village Naharpur. The concerned police officials visited the spot where father of the child victim made a statement before them, wherein, it was alleged that on the intervening night 08/09.06.2013, when his elder daughter, aged about 5 years, went outside the house to answer nature's call, she was molested by the appellant who was living in the neighbourhood. It was also alleged that when the complainant-father went outside to look for his daughter, he saw that the appellant was kissing the victim and had also removed her underwear. When the complainant raised an alarm, his neighbour Raj Kumar also showed up at the spot and they together apprehended the appellant-accused. Resultantly, the FIR (supra) was registered and subsequently, investigation ensued. Upon completion of investigation, final police report was submitted before the learned trial Court and consequently, charges were framed against the appellant for commission of offence punishable under Sections 354, 363, 376(2)(f) read with Section 511 of IPC & Section 10 of POCSO Act, 2012 & Section 3(iii) and (xi) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 to which he pleaded innocence and claimed trial. During the trial, the prosecution examined as many as 14 witnesses to establish its case. Thereafter, statement of the appellant was recorded under Section 313 Cr.P.C. wherein he pleaded false implication and claimed innocence. When appellant was called to put forth his defence, he did not lead any evidence.

**CRA-S-2182-SB-2014****-3-**

Ultimately the appellant was convicted and sentenced in the manner mentioned above. Aggrieved, he has approached this Court by way of the present appeal.

3. Learned counsel for the appellant vociferously contended that the learned trial Court had passed the impugned judgement of conviction in an arbitrary and illegal manner without considering the defense of the appellant. It was also argued that the entire prosecution case was plagued by material contradictions which have been ignored by the learned Court below.

4. Learned State counsel contended that the impugned judgement of conviction as well as the order of sentence has been passed by the learned trial Court after duly appreciating the complete evidence on record. He further submitted that the guilt of the appellant had been established well beyond the shadow of all reasonable doubt and therefore, no interference was warranted by this Court. It was further submitted that as per the custody certificate, the appellant had completed his sentence on 08.03.2017 and was released from jail thereafter.

5. I have heard the learned counsel for the parties and perused the paper-book with their able assistance. It transpires that in the case at hand, the testimonial evidence is in complete consonance with the documentary evidence including the medical evidence. Testimony of the victim (PW-13), who was found to be competent to depose as a witness by the Court below, lays out the abhorrent details of the illegal acts committed with her by the appellant, which stands duly corroborated by the evidence of the

**CRA-S-2182-SB-2014****-4-**

complainant (PW-14) who is also an eye-witness for the occurrence. As per the medical opinion put forth by Dr. Priyanka Goswami (PW-6), possibility of sexual assault cannot be ruled out. It has been established on record from the evidence led by the prosecution that the appellant kidnapped the minor victim and, outraged her modesty and committed aggravated sexual assault upon her. On the contrary, the appellant failed to lead any credible defense which could put any dent in the prosecution case. Therefore, in light of the facts and circumstances of the present case, this Court is able to say with certitude that guilt of the appellant has been established beyond the shadow of reasonable doubt. As such, no interference is warranted by this Court apropos the present case.

6. Resultantly, the instant appeal is hereby dismissed being devoid of any merit.

7. Pending miscellaneous application(s), if any, shall also stand disposed of accordingly.

04.10.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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