

**CRA-S-3258-SB-2016****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRA-S-3258-SB-2016****Date of Decision: 19.09.2024****DALBIR SINGH @ DALBIRA****... Appellant****Vs.****STATE OF PUNJAB****... Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Ms. Ishani Goyal, Advocate for the appellant.

Mr. Rishabh Singla, AAG Punjab

HARPREET SINGH BRAR, J.

1. The present matter is on regular Board of this Court at Sr. No. 848. Under these circumstances, Ms. Ishani Goyal, Advocate (PH-6465-2023) is appointed as Amicus Curiae in the present case to assist this Court on behalf of the appellant. Her remuneration shall be paid by the High Court Legal Services Committee as per rules. Registry to do the needful accordingly on disposal of the present case. Now, this Court is proceeding to decide the present appeal on merits.

2. The present appeal is preferred against the judgment of conviction and order of sentence dated 17.04.2013 passed by the learned Additional Sessions Judge, Amritsar in FIR No. 94 dated 06.10.2011 registered under Sections 376 of IPC at Police Station- Chatiwind, Amritsar. The appellant was sentenced as follows:

Offence under Section	Sentence
376 IPC	Rigorous imprisonment for 10 years and a fine of Rs. 5,000/-. Further 6 months R.I. in case of default.

3. Succinctly, the facts are that on 06.10.2011, the mother of the child victim recorded her statement before the concerned police, wherein, it was alleged that her minor daughter, aged about 8 years, found one of the rooms of her house bolted from inside, when she came back from the paddy fields. When she came closer, the complainant heard alarming noise of her daughter and when she forcibly opened the door, she found her minor daughter drenched in blood. When the complainant raised an alarm, the appellant, who is nephew of her mother-in-law, ran out of the room. However, other relatives of the complainant, namely Sarup Singh and Sarwan Singh, managed to caught hold of the appellant. The aforesaid statement of the complainant culminated into FIR (supra). Upon completion of investigation, the final police report was filed against the appellant and consequently, charges were framed against him for commission of offence punishable under Section 376 of IPC to which he pleaded innocence and claimed trial. During the trial, the prosecution examined 8 witnesses to establish their case whereas, the appellant-accused did not lead any evidence in his defence. Ultimately, the appellant was convicted and sentenced in the manner mentioned above. Aggrieved, he has approached this Court by way of the present appeal.
4. Learned counsel for the appellant contends that the complainant

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borrowed a sum of Rs. 20,000/- from the appellant, three months prior to the registration of the FIR and when the appellant demanded his money back, the complainant got the present false case registered against the appellant. He lastly prayed for taking a lenient view against the appellant

5. Learned State counsel contends 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 submits that the guilt of the appellant has been established well beyond the shadow of reasonable doubt and therefore, no interference is warranted by this Court. However, it is also submitted by him that as per the custody certificate, the appellant had completed his sentence on 26.02.2020 and also paid the fine levied upon him.

6. I have heard the learned counsel for the parties and perused the paper-book with his able assistance. It transpires that in the case at hand, the ocular evidence is in complete consonance with the documentary evidence including the medical evidence. The learned trial Court examined the child victim as PW-1, after finding her competent in her deposition, she has categorically supported the prosecution version and also proved her statement recorded under Section 164 Cr.P.C. The complainant was examined as PW-2 and she further corroborated the statement of the victim. As per the medical evidence put forth by Dr. Rupam Pasricha while testifying as PW-3, a lacerated wound measuring 1 cm x 0.3 cm was present just outer to hymen which bled on touch. Furthermore, as per the report of

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the chemical examiner Ex.PW3/C qua the vaginal swabs taken from lower vagina and introitus and upper vagina of the child victim, spermatozoa were detected in those swabs. It was also opined by her that the child victim was subjected to sexual assault. Dr. Narinder Singh (PW-4), who conducted potency test on the appellant, found that there was nothing to suggest that the appellant was incapable of performing sexual intercourse. As per the evidence of Radiologist (PW-5), age of the victim was opined to be 10 to 12 years.

7. After examining the entire evidence, in light of the facts and circumstances of the present, this Court is able to say with certitude that the guilt of the appellant has been established beyond the shadow of reasonable doubt. Therefore, no interference is warranted by this Court apropos the present case.

8. Resultantly, the present appeal is dismissed since it is bereft of any merit.

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

19.09.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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