

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-5088-SB-2015
Date of Decision: 18.09.2024

SURAJ

... Appellant

Vs.

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vikas Lochab, Advocate
For the appellant

Mr. Vikas Bhardwaj, AAG, Haryana

HARPREET SINGH BRAR, J.

1. The present appeal is preferred against the judgment of conviction dated 25.09.2015 and order of sentence dated 29.09.2015 passed by the learned Additional Sessions Judge, Hisar in FIR No. 406 dated 24.11.2014 registered under Sections 323, 324, 452, 354(A)(1) of IPC and Section 10 of POCSO Act, 2012 and Section 25 of Arms Act at Police Station- Hansi, Sadar. The appellant was sentenced as follows:

Offence under Section	Sentence
452 IPC	Rigorous imprisonment for 3 years and a fine of Rs. 10,000/-. Further 1 year R.I. in case of default
354A(2) IPC	Rigorous imprisonment for 3 years and a fine of Rs. 10,000/-. Further 1 year R.I. in case of default.
324 IPC	Rigorous imprisonment for 3 years and a fine of Rs. 10,000/-. Further 1 year R.I. in case of default.

326 IPC	Rigorous imprisonment for 7 years and a fine of Rs. 15,000/-. Further 1 year R.I. in case of default.
25 Arms Act	Rigorous imprisonment for 5 years and a fine of Rs. 10,000/-. Further 1 year R.I. in case of default.

2. Succinctly, the facts are that on 23.11.2014, the concerned police officials were informed about the admission of the victim child to a hospital. The police party reached the hospital and recorded the statement of the victim child on 24.11.2014, after she was declared fit to do so by the attending doctor. In her statement, the victim alleged that when she was alone at home on 23.11.2014, the appellant/accused who lived in the neighbouring house, entered into her house and molested her. It was alleged by the victim that the accused began to fondle her breasts and when she resisted, he gave 4-5 blows on her head with a knife which resulted in injuries on her head as well as her hands. When she raised an alarm, a person namely Patel Saini who was working in a nearby field, came to the spot which made the accused flee the spot. Then her parents also reached there and got her admitted to a hospital. The aforesaid statement of the victim child culminated into FIR (supra). Upon completion of investigation and necessary procedural formalities, the final police report was filed against the appellant and consequently, charges were framed against him for commission of offence punishable under Sections 323, 324, 452, 354(A)(1) of IPC and Section 10 of POCSO Act, 2012 and Section 25 of Arms Act to

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which he pleaded innocence and claimed trial. During the trial, the prosecution examined 9 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 he was called to lay his defence, the appellant-accused chose to close his evidence without leading any 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.

3. Learned counsel for the appellant contends that the appellant was falsely implicated due to a previous enmity caused by his close proximity to the alleged victim. Even the appellant had received injuries on his hands which were ignored by the learned Court below. It is further contended that the learned trial Court has ignored the fact that there are material contradictions in the prosecution version.

4. 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 27.07.2020 and was released thereafter.

5. I have heard the learned State counsel and perused the paper-

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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. As per the MLR Ex.PC prepared by Dr. Vivek Yadav (PW-3), the victim suffered five injuries on her body including her hands, head and neck, out of which two were of grievous nature and all of them were caused with a sharp-edged weapon. Similarly, Dr. Lalit Mohan (PW-6) who also examined the victim deposed that the victim suffered from fractured fingers as well as fractured parietal bone as per X-ray report (Ex. PD) and C.T. Scan report (Ex. PE). Furthermore, the FSL report (Ex. PA) showed that earth lifted from the crime scene as well as the knife (Darat) used contained blood of human origin. In addition, the testimony of the victim (PW-1) remained consistent and unblemished despite being put through vigorous cross-examination and it was further corroborated by the testimony of her father examined as PW-2. On the contrary, the defence version put forth by the accused suffered from material contradictions. As far as the age of the victim is concerned, the investigation agency completely muddled the evidence collection which led the learned trial Court to rightly acquit the accused of charge framed under Section 10 POCSO Act. However, other charges remained established and proved.

6. Therefore, 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 reasonable doubt. Therefore, no interference is warranted by this Court apropos the present

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case.

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

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

18.09.2024*Ajay Goswami***(HARPREET SINGH BRAR)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No