



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-2839-SB-2010 (O&M)
Reserved on: 23.09.2024
Pronounced on: 25.09.2024

Ranjit Kumar @ Gulgappa

... Appellant

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Deepak Jaglan, Advocate (legal aid counsel)
for the appellant.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J.

1. Present appeal has been preferred against the judgment of conviction and the order of sentence dated 23.09.2010 passed by learned Additional Sessions Judge, Ludhiana in FIR No.69 dated 17.03.2008 under Section 376 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Shimlapuri, Ludhiana, vide which the appellant was convicted and sentenced to undergo rigorous imprisonment for a period of 07 years with a fine of Rs.5,000/- and in default of payment of fine, to further undergo

2024:PHHC:133149



rigorous imprisonment for a period of 06 months.

2. Succinctly, the facts, as alleged, are that on 17.03.2008, the complainant made a statement before the concerned police, wherein it was stated that a girl aged about 03 years, while weeping, came to his tea stall on the aforesaid day. The complainant noticed that the victim child was bleeding from her crotch area and had a visible injury on her left cheek. The complainant immediately informed the police control room and also got the victim admitted in the Civil Hospital. Subsequently, investigation ensued and on 18.03.2008, the victim child was identified by her father. Necessary procedural formalities were completed. On 21.03.2008, co-accused Pankaj Kumar was arrested, who confessed his guilt during investigation and then on 25.03.2008, the appellant was also arrested. Upon completion of the investigation, final police report was submitted before learned trial Court and consequently, charges were framed against them for commission of offence punishable under Section 376 of IPC, to which they pleaded innocence and claimed trial. During the trial, the prosecution examined as many as 08 witnesses to establish its case. Thereafter, statements of the accused were recorded under Section 313 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), wherein they pleaded false implication and claimed innocence. When they were called to put forth their defence, the accused chose to close their evidence without leading any defence. Ultimately, co-



accused Pankaj Kumar was acquitted of the charges framed against him, whereas the appellant was convicted and sentenced in the manner mentioned above. Aggrieved, he has approached this Court by way of filing the present appeal.

3. Learned counsel for the appellant vociferously contended that apart from a confessional statement of the appellant before the police, which has no evidentiary value, there is not even a single piece of evidence to establish his guilt. Learned trial Court gravely erred in basing the conviction of the appellant upon the extra-judicial confession without there being any corroboration of the same. It was further contended that the entire prosecution case is plagued by material contradictions, which have been ignored by learned Court below.

4. Learned State counsel contends that the impugned judgment of conviction as well as the order of sentence have been passed by learned trial Court after duly appreciating the complete evidence on record. He further submits that 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 23.06.2014 and was released thereafter.

5. I have heard learned counsel for the parties and perused the



record of the case 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. The mother of the victim child was examined as PW-1 before learned trial Court, wherein she categorically deposed that her daughter, upon gaining consciousness, told her that the appellant had raped her. It has also come on record that the appellant used to reside in the same courtyard, where the victim and her family was living. It is also pertinent to discuss the evidence put forth by PW5 Pawan Kumar, wherein he has stated on oath that the appellant visited his shop on 22.03.2008 and told him that the appellant had committed rape with a 4-5 years old girl on 17.03.2008 under the influence of liquor. PW5 Pawan Kumar also informed the concerned police about the extra-judicial confession of the appellant. Indubitably, judicial confession is a weak piece of evidence, when tested at the touchstone of the law of evidence, but the same is to be considered in accordance with the facts and circumstances of each case. In the case at hand, neither any suggestion has been made qua existence of any previous animosity or ill-will on the part of PW5 Pawan Kumar against the appellant nor any evidence has come forth to completely vitiate the testimony of the aforesaid witness.

6. Moreover, age of the victim child is not under dispute. Furthermore, the testimony of PW2 Dr. Surinder Pal Kaur reveals that as per



X-ray examination of the victim child, her age came out to be between 03 to 05 years at the time of the incident. The aforesaid doctor categorically deposed that in her medical opinion, the victim was subjected to rape and even spermatozoa was detected on three vaginal swabs. As per FSL report, clothes of the victim were stained with human blood. Given the age of the victim and her cognitive ability, the fact that she was not examined by the prosecution, in no way, puts a dent in the prosecution case. Therefore, after examining the entire evidence in the light of facts and circumstances of the present case, this Court is able to say with certitude that guilt of the appellant has been established beyond reasonable doubt. As such, no interference is warranted by this Court apropos the present case.

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

8. All the pending miscellaneous application(s), if any, shall stand disposed of.

[HARPREET SINGH BRAR]
JUDGE

25.09.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No