



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

101

CRA-S-1444-SB-2004 (O&M)
Reserved on: 24.03.2025
Pronounced on: 26.03.2025

Paras Ram @ Rajesh

....Appellant

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sukhdeep Singh Chhatwal, Advocate (*Amicus Curiae*)
for the appellant.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR J. (Oral)

1. The present appeal has been preferred against impugned judgment of conviction dated 28.02.2004 and order of sentence dated 01.03.2004 passed by learned Additional Sessions Judge, Rewari in the case stemming from FIR no.183 dated 04.09.2002 registered under Sections 363, 366 IPC at Police Station City Rewari. The appellant was sentenced as under:

Offences	Sentence
Section 363 IPC	Rigorous imprisonment for three years and a fine of Rs.500/-, in default of which further simple imprisonment for a period of three months.
Section 366 IPC	Rigorous imprisonment for five years and a fine of Rs.1000/-, in default of which further simple imprisonment for a period of six months.

FACTUAL BACKGROUND

2. Briefly, case of the prosecution is that on 16.08.2002, at about 10 PM, the maternal grandmother of Rajender Parsad-the

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complainant found his 15 years old sister, the prosecutrix, to be missing. The complainant stated that his sister has been enticed by the appellant, his brother Ravinder and their brother-in-law (*Jija*), who had taken her away on the pretext of marriage with Ravinder. The prosecutrix was ultimately recovered from the house of the aunt of the appellant in Bihar.

3. In order to prove its case, the prosecution examined as many as 12 witnesses. Thereafter, the statement of the appellant under Section 313 Cr.P.C. was recorded where he denied the charges and pleaded false implication. However, he did not lead any evidence in his defence. On assessing all the material available on record, the learned trial Court convicted the appellant and sentenced him as mentioned above.

CONTENTIONS

4. Learned *Amicus Curiae* appearing on behalf of the appellant *inter alia* submits that the FIR(supra) was registered after a significant unexplained delay as PW1- Rajender Parsad, brother of the complainant had found the prosecutrix to be missing from their home on 16.08.2002. Further, the prosecutrix, who appeared as PW3 stated that she was kept at the house of the aunt of the appellant in Bihar for a month while her brother- Budh Ram, who appeared as PW2, had stated that she was recovered after four months of the incident. The prosecutrix herself has confessed that the appellant and Mahender, his brother-in-law remained in Delhi and did not accompany her and Ravinder to Bihar. Further, since the prosecutrix did not make any

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attempts to complain about the alleged act of the accused, it cannot be said that she was taken away or that the appellant had sexual intercourse with her without her consent. Finally, nothing on the record proves that she was under the age of 18 years at the time of the alleged incident that would negate the factum of her consent.

5. *Per contra*, learned State counsel produces the custody certificate of the appellant, which is taken on record, and submits that the learned trial Court has correctly appreciated the facts and the law in order to arrive at a guilty verdict qua the appellant. As such, no interference is warranted in the impugned judgment of conviction or order of sentence.

OBSERVATIONS AND ANALYSIS

6. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that the prosecutrix was under the age of consent i.e. 16 years, at the time of the alleged incident. The same stands proven by PW10- Tulsi Ram, Secretary, Municipal Council, Rewari, who has produced relevant documents that state her date of birth to be 23.08.1987. Further, the prosecutrix, who appeared as PW3, has categorically deposed that she was enticed away from her house by the appellant, Ravinder, his brother and Mahender, his brother-in-law in order to get her married to Ravinder. She further states that Ravinder also engaged in sexual intercourse with her, without her consent. She was taken to Panipat followed by Delhi and then Bihar. She was kept in the house of the aunt



of the appellant, from where she was recovered, as evidenced by PW6-Bhagmal, who witnessed the recovery in Bihar.

7. A two Judge bench of the Hon'ble Supreme Court in ***Krishan Kumar Malik vs. State of Haryana 2011(3) R.C.R(Criminal) 539***, speaking through Justice Deepak Verma, made the following observations:

“31. No doubt, it is true that to hold an accused guilty for commission of an offence of rape, the solitary evidence of prosecutrix is sufficient provided the same inspires confidence and appears to be absolutely trustworthy, unblemished and should be of sterling quality.”

Further, a two Judge bench of the Hon'ble Supreme Court in ***Rai Sandeed @ Deepu vs. State of NCT of Delhi (2012) 8 SCC 21***, speaking through Justice Fakkir Mohammed Ibrahim Kalifulla, opined as follows:

“15. In our considered opinion, the 'sterling witness' should be of a very high quality and caliber whose version should, therefore, be unassailable. The Court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the Court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as, the sequence of it. Such a version should have co-relation with each and everyone of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion.

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The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other similar such tests to be applied, it can be held that such a witness can be called as a 'sterling witness' whose version can be accepted by the Court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the Court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged.”

8. In view of the discussion above, it is evident that the prosecutrix has been consistent with her version that is also corroborated by other evidence. She has put forth a sterling account of the sequence of events that transpired and the inconsistencies alleged by the learned counsel for the appellant are not significant enough to create a dent in the prosecution case.

9. Accordingly, the present petition is dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of.

10. The High Court Legal Services Committee is directed to remunerate the learned *Amicus Curiae* as per rules.

(HARPREET SINGH BRAR)
JUDGE

26.03.2025

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