

CRR-499-2010 (O & M)

2025:PHHC:025605



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(202)

CRR-499-2010 (O & M)
Reserved on:19.02.2025.
Pronounced on: 21.02.2025

Chaman Lal

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rahul Dahiya, Advocate,
for the petitioner.

Mr. Vinay Phogat, DAG, Haryana.

JASJIT SINGH BEDI, J.

The present revision petition has been filed impugning the judgment dated 02.02.2010 passed by the Additional Sessions Judge, Kurukshetra whereby the appeal filed against the judgment of conviction and order of sentence dated 14/15.07.2009 passed by the Judicial Magistrate Ist Class, Kurukshetra, has been dismissed.

2. The FIR in the present came to be registered on 25.08.2002. The judgment of conviction and order of sentence was passed on 14/15.07.2009 by the Judicial Magistrate Ist Class, Kurukshetra. The Appeal filed against the judgment of conviction and order of sentence was dismissed on 02.02.2010 by the Additional Sessions Judge, Kurukshetra. The instant



revision petition was filed on 18.02.2010 and has come up for final hearing now i.e. after a period of more than 22 years from the date of registration of the FIR.

3. Succinctly, the case of the prosecution is that on 25.08.2002, ASI Gurdyal Singh alongwith Head Constable Sita Ram and Constable Phool Singh returned to the Police Station Sadar Thanesar after investigation of case No.357 of 2002, under Section 306/34 IPC. Complainant-Sweetie Rani alongwith her husband Dev Kumar came there and gave an application Exh.PW-1/A stating therein that on the intervening night of 24/25.08.2002, she was sleeping alongwith her infant child inside her house. Her husband Dev Kumar was sleeping in the compound. The door of her room was open but the main gate was locked from inside. At about 2.00 A.M., a person entered her house after climbing the wall and after entering her room started doing indecent acts with her with a bad intention. Complainant called for her husband and after freeing herself, when she switched on the light of the room, she saw accused-Chaman Lal present there. Chaman Lal told her to keep quite otherwise he would kill her. Thereafter, Chaman Lal tried to run away and when he was climbing the wall Dev Kumar and their neighbourer, Ishwar Singh and Rana caught hold of him. After opening the main door, they saw the Tractor of Chaman Lal, without a number plate parked out side their house. She further stated that a Panchayat was convened and relatives of accused Chaman lal were called but no justice was given. She stated that



Chaman Lal ran from the spot after leaving his Tractor. She prayed that legal action be taken against the accused.

After making his endorsement Exh.PA, ASI Gurdyal Singh sent the statement to the Police for registration of F.I.R. Exh.PB. He went to the spot and prepared the rough site plan Exh.PC. Tractor of the accused Chaman Lal which was found parked at the spot and was taken into police possession vide recovery memo Exh.PD. Statements of witnesses were recorded. The accused was arrested in the present case. On completion of investigation, the accused was challaned.

4. After perusing the report under section 173 Cr.P.C, a *prima facie* case under Sections 451, 354 and 506 IPC was made out against the accused and he was charged accordingly by the then Chief Judicial Magistrate, Kurukshetra vide order dated 11.02.2003. The accused pleaded not guilty and claimed trial.

5. In order to prove its case, the prosecution examined Sweety Rani as PW1, Dev Kumar as PW2, Ishwar as PW3, Rana Singh as PW4, Gurdyal Singh as PW-5 and Sita Ram ASI as PW-6.

6. Sweety Rani, PW1, is the complainant at whose instance, the F.I.R. was registered. She deposed that it was an incident of August, 2002. She alongwith her daughter was sleeping in a room in her house. At about 2.00 A.M., accused Chaman Lal entered her room and started doing indecent acts with her. She switched on the light and called for her husband who was sleeping in the compound. The accused tried to run away and he was caught



by her husband and their neighbourer Ishwar and Rana, when the accused was climbing the wall. She proved her signatures on application Exh.PW-1/A being made before the police.

Dev Kumar, PW-2, husband of the complainant deposed that on the intervening night of 24/25.08.2002, he was sleeping in the compound of his house. His wife raised an alarm and after awakening when he ran inside, his wife told him that accused Chaman Lal had entered her room. He alongwith Ishwar and Rana, his neighbourers, who reached the spot after hearing their noise, caught hold of the accused when he was climbing the wall. His wife told him that accused was doing an indecent act with her. Thereafter, the accused ran away. The Sarpanch of the village came at the spot. The accused left his Tractor behind. The Police came to the spot. Thereafter, the accused was arrested.

Ishwar, PW-3, deposed that on the intervening night of 24/25.08.2002, at about 2:00 A.M., he was sleeping on the roof of his house. He heard the noise of 'Bachao-Bachao' coming from the house of Dev Kumar. He saw Dev Kumar catching hold of Chaman Lal. He went to the house of the complainant and called the police.

Rana Singh, PW-4, deposed that on the night of 24.08.2002, at about 2.00 A.M., when he was sleeping on the roof of his house, he heard the sounds of 'Bachao-Bachao' and when he came down stairs, he saw accused Chaman Lal trying to escape and was climbing the wall of the house



of Dev Kumar. They caught hold of the accused. 5-10 other persons gathered there. They telephoned the police. The Police recorded his statement.

ASI Gurdial Singh, PW-5, the investigating officer of the present case, gave the details of investigation carried out by him.

ASI Sita Ram, Pw-6 deposed that on 25.08.2002, the Tractor was taken into police possession and he signed on the recovery memo.

7. After the closure of the prosecution evidence, the statement of the accused as required under section 313 Cr.P.C was recorded and the circumstances appearing in evidence against him were put to him. He controverted the allegations and stated that he had been falsely implicated.

8. Based on the evidence led, the accused-petitioner/Chaman Lal came to be convicted vide judgment of conviction and order of sentence dated 14/15.07.2009 as under:-

Offence under Section	Sentence RI	Fine	SI in default of payment of fine
354 IPC	RI 01 year and 06 months	Rs.500/-	03 months
451 IPC	RI 01 year and 06 months	Rs.500/-	03 months

Both the sentences were ordered to run concurrently.

9. The accused-petitioner preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge, Kurukshetra, vide judgment dated 02.02.2010.

10. The aforementioned judgments are under challenge in the present petition.



11. During the pendency of the instant revision petition, the sentence of the accused-petitioner was suspended vide order dated 24.02.2010.

12. The learned counsel for the accused submits that the accused has been falsely implicated in the present case. The complainant was a previous acquaintance of the accused as is apparent from the depositions of PW-1/Sweetie Rani and PW-2/Dev Kumar. The complainant had eloped with the accused before her marriage and had stayed with him for about 2 months. Due to previous enmity, the present F.I.R. was lodged. He further submits that there are material contradictions in the testimonies of the prosecution witnesses and they cannot be relied upon to convict the accused. It is the case of the prosecution that the accused was caught at the spot but instead of taking him into the police station, they let him flee. As per the version of the FIR, the complainant and her husband came to the police station and gave an application whereas as per the version of PW-2/Dev Kumar, PW-3/Ishwar and PW-4/Rana Singh, the police came to the spot at night and they met the complaint then and there. The complainant in her cross-examination stated that she had given the application to the police in writing but she stated that she was illiterate. He further submits that there is a substantial delay in the registration of F.I.R. The occurrence took place on the night intervening 24/25.08.2002 at about 2.30 A.M. The police came to the spot at about 3.00 P.M. Yet the FIR came to be registered at 9.35 P.M.



This delay is fatal to the prosecution case and shows that the accused has been falsely implicated due to the past relationship.

13. The learned counsel for the State, on the other hand, contends that evidence of PW-1/Sweetie Rani and PW-2/Dev Kumar, her husband is consistent in material particulars as to how the occurrence took place. The statements of PW-3/Ishwar and PW-4/Rana Singh who came to the spot on hearing the complainant shouting also supports the prosecution case. Therefore, the offence stands established beyond doubt and the present petition was liable to be dismissed.

14. I have heard the learned counsel for the parties.

15. A perusal of the FIR and deposition of PW-1/Sweetie Rani, the complainant, reveals that the story propounded by her is quite unbelievable. As per her allegation, the accused entered her house at night and committed the offence in question. However, a perusal of the site plan of the place of occurrence as also the deposition of the complainant would show that the accused walked 40/45 feet from the entrance of the house to the room where the prosecutrix was sleeping and committed the offence in question by going past the father-in-law and the husband/PW-2-Dev Kumar of the prosecutrix who were admittedly sleeping outside in the courtyard. It is highly unlikely that the accused would come into the house of the complainant dead of night, in the presence of the family members and commit the offence. Therefore, the prosecution version is inherently doubtful.



16. The cross-examination of PW-1/Sweetie Rani-complainant and her husband/PW-2-Dev Kumar would also reveal that the accused was known to the prosecutrix inasmuch as he allegedly enticed her away prior to her marriage and a case had been registered purportedly at the instance of the complainant against the said Chaman Lal but no conviction was recorded. This fact itself creates a doubt in the prosecution case of the accused entering the house of the prosecutrix at night to commit the offence in question.

17. There is a considerable delay in the registration of the FIR which goes to show that a story has been created to implicate the accused for some ulterior motive. The occurrence took place purportedly at about 2.00/2.30 A.M. on the night intervening 24/25.08.2002. As per PW-2/Dev Kumar, PW-3/Ishwar and PW-4/Rana Singh, the police came to the spot at 3.00 a.m.. However, for reasons best known to the complainant and her family, the FIR only came to be registered more than 18 hours after the occurrence at 9.35 P.M. This delay casts a significant doubt in the prosecution version keeping in mind the overall attending facts and circumstances.

18. PW-3/Ishwar and PW-4/Rana Singh both stated that the accused was apprehended at the spot but no quarrel had taken place in their presence and PW-2/Dev Kumar stated that the accused fled away from the spot after being caught. These facts also create a doubt in the prosecution case

because, firstly, if the occurrence has taken place as suggested, the



complainant party would have certainly been quarreling with the accused in the presence of these witnesses who came to the spot immediately having heard the shouting of the complainant. Secondly, if the accused had been apprehended by the prosecution witnesses and the police came soon thereafter, then he could not have possibly escaped and arrested later on 27.08.2002. The prosecution case becomes doubtful on this ground as well.

19. A cumulative effect of the aforementioned discussion is that the prosecution has not proved its case beyond reasonable doubt and therefore, the present petition is allowed. The impugned judgments passed by the Trial Court as well as the Lower Appellate Court dated 14/15.07.2009 and 02.02.2010 respectively are set aside and the petitioner is acquitted of the charges framed against him.

20. The pending applications, if any, stand disposed of accordingly.

February 21, 2025
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No