
(2014) 07 P&H CK 0800

High Court Of Punjab And Haryana At Chandigarh

Case No: CRA-S-No. 1601-SB of 2010 (O&M)

Bhagwan

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: July 17, 2014

Acts Referred:

- Penal Code, 1860 (IPC) - Section 376, 452, 506

Hon'ble Judges: Surinder Gupta, J

Bench: Single Bench

Advocate: J.P. Sharma, Advocate for Suveer Sheokand, Advocate G.S. Chahal, Additional Advocate General, Advocate for the Appellant

Final Decision: Disposed Off

Judgement

@JUDGMENTTAG-ORDER

Surinder Gupta, J.

The prosecutrix was a widow aged about sixty years. As per the allegations in the complaint made by her to the police, she was sleeping in her house, on 26.09.2009 at about 3.00 am, when the appellant entered her room from the roof top, gagged her mouth and committed rape upon her at knife point. He left thereafter, giving threat to the prosecutrix not to report the matter to anyone or he will kill her. The prosecutrix called her neighbour Lal Singh and thereafter several villagers collected at the spot. The father of the appellant was called. The appellant confessed his guilt and tendered apology. But on coming to know of the information being conveyed to the police, he escaped.

2. The police registered the formal FIR on the complaint of prosecutrix. Arrested the appellant and presented the challan against him. The appellant was charge sheeted for offence punishable u/s 452, 376 and 506 IPC to which he pleaded not guilty and claimed trial. The trial Court convicted and sentenced the appellant to undergo rigorous imprisonment for ten years and to pay fine of Rs. 50,000/- for offence

punishable u/s 376 IPC, rigorous imprisonment for five years for offence punishable u/s 452 IPC and to pay fine of Rs. 3,000/- and rigorous imprisonment for four years for offence punishable u/s 506 IPC and to pay fine of Rs. 2,000/-.

3. Learned counsel for the appellant, without challenging the conviction of the appellant on merit, has confined the relief claimed in this appeal for leniency in the matter of sentence awarded to the appellant. He has argued that the appellant is a young boy of 25 years of age. He is married and has his own family. He is the only bread winner of the family. He has suffered the agony of trial and thereafter conviction for the last about five years. He has also undergone more than four and half years of imprisonment, as such, has suffered for offence committed by him. Keeping in view all these facts and circumstances, he has sought release of the appellant by awarding him the sentence already undergone.

4. The perusal of the file shows that the petitioner is not a previous convict. The custody certificate produced on file shows that he has undergone about four years five months and nine days of actual sentence, which does not include remissions he has got during his custody period in jail.

5. Keeping in view the age, antecedents of the appellant and submissions made by learned counsel for the appellant, the sentence awarded to the appellant for offence u/s 376 IPC is reduced from ten years to seven years. The remaining sentence awarded to the appellant, including the sentence of fine are kept intact and the appeal is disposed of accordingly.

6. Copy of this judgment be sent to the concerned trial Court and Chief Judicial Magistrate, Rewari for appropriate action.