



CRA-S-964-SB-2004 and
CRR-2295-2004

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Reserved on: 18.08.2025

Pronounced on:- 08.09.2025

(1)

CRA-S-964-SB-2004

Jagtar Singh and another

....Appellants

Versus

State of Punjab

....Respondent

(2)

CRR-2295-2004

Baljinder Kaur

....Petitioner

Versus

Jagtar Singh and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Ram Bilas Gupta, Advocate
for appellant No. 1 in CRA-S-964-SB-2004 and
for respondent No. 1 in CRR-2295-2004.

Appeal by appellant No. 2 Avtar Singh bearing
CRA-S-964-SB-2004 abated vide order dated 26.09.2016.

Mr. Gurcharan Dass, Advocate
for the petitioner in CRR-2295-2004 and
for the complainant in CRA-S-964-SB-2004.

Mr. Jasjit Singh Rattu, DAG, Punjab.

AMARJOT BHATTI, J.

1. Both abovementioned cases i.e. criminal appeal as well as criminal revision arising out of same judgment dated 24.03.2004 and order on question of sentence of even date, in FIR No. 263/2002 under Section 376,



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506 of Indian Penal Code registered at Police Station Division No. 7, Ludhiana are taken up together for final disposal.

2. Appellants/convicts Jagtar Singh and Avtar Singh have filed appeal i.e. CRA-S-964-SB-2004, whereas, petitioner/complainant/prosecutrix in CRR-2295-2004 have filed criminal revision against judgment of conviction and order on question of sentence dated 24.03.2004 passed by learned Additional Sessions Judge (Adhoc), Ludhiana, in Sessions Case No. 27 of 03.03.2003, case titled "State Vs. Jagtar Singh and anr.", vide which appellants/convicts Jagtar Singh and Avtar Singh in CRA-S-964-SB-2004 and respondents No. 1 and 2 in CRR-2295-2004 were sentenced as under :-

Name of Convicts	Offence	Sentence
1. Jagtar Singh	Under Section 376 of IPC	To undergo rigorous imprisonment for seven years each and to pay a fine of Rs. 1,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for one month each
2. Avtar Singh	Under Section 506 of IPC	To undergo rigorous imprisonment for one year each and to pay a fine of Rs.500/- each and in default of payment of fine, to further undergo rigorous imprisonment for 15 days each.

3. Brief facts of the case are, on 06.11.2002 prosecutrix 'BK' alias 'M' daughter of 'IS' gave her statement to police alleging that her father was serving as Homeguard in Janakpuri. They were residing on rent in the house of Gurcharan Singh Fauji in village Jamalpur. Her father's paternal aunt namely Gurmail Kaur alongwith uncles namely Dhanna, Avtar Singh @ Noni and Jagtar Singh @ Gora were residing in Police Colony at Jamalpur. About two months ago, her uncle Jagtar Singh came to their house and requested



them to take their daughter alongwith him for domestic help as their mother was to undergo eye surgery. On his request, parents of prosecutrix sent her alongwith him. After one month, at about 01:00 pm, when Gurmail Kaur went to receive pension, Jagtar Singh finding prosecutrix alone in the house asked her to remove her clothes, to which she refused. However, Jagtar Singh forcibly threw her on bed and removed her clothes. When prosecutrix tried to raise alarm, Jagtar Singh gagged her mouth and forcibly performed sexual intercourse with her and also threatened to kill her if she disclosed about this incident to anybody. Again about 08 days prior to Diwali festival, prosecutrix was alone in the house. At about 02:30 pm, her other uncle Avtar Singh who came from Baroda caught her forcibly and took her inside the room and undressed her. When she tried to raise alarm, he gagged her mouth and threatened her that he would kill her. He then forcibly performed sexual intercourse with her. Out of fear, she did not disclose about aforementioned incidents to anybody. A day before Diwali festival, Jagtar Singh and Avtar Singh were quarrelling with each other, due to which prosecutrix went to her parent's house and disclosed about aforementioned incidents to them. Parents of prosecutrix decided to lodge the report after Diwali festival and finally, on 06.11.2002, matter was reported to police and present FIR was registered.

4. During investigation, Birth Certificate of prosecutrix was taken into police possession. Rough site plan of place of occurrence was prepared. Prosecutrix was medically examined. Both accused were arrested on 11.11.2002. Statements of witnesses were recorded under Section 161 Cr.P.C. Statement of prosecutrix was also recorded under Section 164 Cr.P.C. by the concerned Magistrate and after completion of investigation, challan was



prepared and same was presented before learned Illaqa Magistrate.

5. Accused Jagtar Singh and Avtar Singh were supplied complete set of copies of challan report as provided under Section 207 of Cr.P.C. Since the offence under Section 376 of IPC was exclusively triable by the Court of Sessions, therefore, learned Judicial Magistrate Ist Class, Ludhiana committed the case to the Court of learned Sessions Judge, Ludhiana for trial vide commitment order dated 17.02.2003.

6. Learned Additional Sessions Judge, Ludhiana after hearing arguments, on 03.03.2003 framed charge-sheet against accused Avtar Singh and Jagtar Singh under Sections 376 and 506 of IPC, which was read over and explained to them in simple language to which they pleaded not guilty and claimed trial.

7. In order to prove the facts of case, prosecution examined HC Chanchal Singh as PW-1, Dr. Ashok Raswant as PW-2, prosecutrix as PW-3, Sudarshan Kumar Sharma, Local Registrar, Births and Deaths, M.C. Ludhiana as PW-4, 'IS' father of prosecutrix as PW-5, CII Ram Saran as PW-6, 'AK' alias 'KK' mother of prosecutrix as PW-7, Dr. Kiran Bala as PW-8 and ASI Raj Kumar as PW-9. Thereafter, prosecution evidence was closed by order of Court on dated 08.03.2004.

8. Statements of both accused persons were recorded under Section 313 Cr.P.C. by the trial Court to which they pleaded innocence and false implication on account of property dispute raised by father of prosecutrix.

Accused in defence examined two witnesses i.e. Neelam wife of Jagtar Singh as DW-1 and Gurmail Kaur mother of accused as DW-2.



9. After hearing arguments advanced by learned Additional Public Prosecutor for the State and learned counsel representing accused persons, accused Jagtar Singh and Avtar Singh were held guilty and convicted under Sections 376 and 506 of IPC vide judgment of conviction dated 24.03.2004 and sentenced as referred above vide order on question of sentence, of even date passed by learned Additional Sessions Judge (Adhoc), Ludhiana.

Feeling aggrieved of this judgment of conviction and order on question of sentence, appellants Jagtar Singh and Avtar Singh filed present appeal i.e. CRA-S-964-SB-2004, whereas, petitioner/complainant filed separate criminal revision i.e. CRR-2295-2004 for enhancement of sentence awarded to both the appellants/convicts.

10. However, during the pendency of present appeal, report regarding death of appellant No. 2-Avtar Singh was received and vide order dated 26.09.2016, appeal qua appellant No. 2-Avtar Singh stood abated.

11. Learned counsel for appellant No. 1 Jagtar Singh argued that judgment of conviction and order on question of sentence dated 24.03.2004 passed by learned Additional Sessions Judge (Adhoc), Ludhiana is against the law and facts established on file. In the grounds of appeal, appellants took the stand that trial Court has committed an error by holding joint trial of appellants since as per prosecution version two incidents took place on different dates and same were independent to each other. Holding of joint trial has caused material prejudice to appellants.

11.1 Version put forward by prosecution is not trustworthy. There is delay in lodging FIR. Prosecutrix has failed to mention any specific date or month when the said incidents took place. There is a vague assertion that one



incident took place with a gap of one month when prosecutrix had gone to the house of Gurmail Kaur for stay and another incident had taken place about eight days prior to Diwali festival. There was no prompt registration of FIR. When mother of prosecutrix allegedly came to know about aforesaid incidents, it was claimed that matter will be reported to police after Diwali festival. Aforesaid delay in lodging the report is fatal to prosecution case.

11.2 Version of prosecution is highly improbable. There is no independent corroboration to prosecution case. Prosecutrix stepped into the witness box as PW-3. Apart from her, prosecution examined 'IS' father of prosecutrix as PW-5 and 'AK' alias 'KK' mother of prosecutrix as PW-7. Learned counsel for appellant Jagtar Singh referred to cross-examination of prosecutrix PW-3, both parents examined as PW-5 and PW-7 who confirmed that place of occurrence is a flat situated in Police Colony, Jamalpur. House of parents of prosecutrix was at a distance of about 200-300 yards. It is further not disputed that around the place of occurrence there are other flats occupied by police officials who were residing there alongwith their families. Said police colony was gated one. Therefore, it cannot be believed that in case said occurrence had taken place there was nobody to hear her hue and cry. Learned counsel for appellant Jagtar Singh has relied upon the judgment of **Patna High Court(DB) in Criminal Appeal(DB) No. 1096 of 2024 decided on 08.01.2025** cited in *2025(1) ECRC 569 : Law Finder Doc Id #2682025*, titled "**Sanni Kumar @Sanny Kumar Vs. The State of Bihar**", where in that case "*trial Court had relied upon the sole testimony of minor victim and apart from this there was delay of 26 days in lodging FIR.*" It was observed that "*prosecution was required to prove its case beyond the shadows of*



reasonable doubt and furthermore it was observed that sole testimony of victim was not of sterling quality, as a result in that case conviction of appellant was set aside by accepting the appeal.” Learned counsel for appellant Jagtar Singh has also put reliance on the judgment of **Rajasthan High Court (Jaipur Bench) in Single Bench Criminal Appeal No. 90 of 1992 decided on 20.05.2024** cited in **2024(2) RLW 1749 : Law Finder Doc Id # 2582716**, case titled **“Ghulam Mohammed Versus State of Rajasthan”**, where again on the ground of delay in lodging the FIR and uncorroborative testimony of victim, appellant in that case was acquitted. Even in the case in hand, FIR has been lodged after due deliberation and sole testimony of victim/prosecutrix cannot be safely relied upon.

11.3 Lastly, learned counsel for appellant Jagtar Singh referred to statement of Dr. Kiran Bala examined as PW-8 who medically examined prosecutrix on 07.11.2002 and proved her MLR, carbon copy of original is Ex.PW7/1. During cross-examination she admitted that as per medical report there were no marks of injury on vagina either external or internal part. As per report of Chemical Examiner Laboratory Ex.PE, no Spermatozoa were found on the contents of exhibits tested in the laboratory.

11.4 Learned counsel for appellant Jagtar Singh referred to the testimony of witnesses examined in defence i.e. Neelam DW-1 wife of appellant No. 1 Jagtar Singh and Gurmail Kaur DW-2 mother of appellants, who categorically claimed that no such occurrence ever took place in the house of Gurmail Kaur DW-2. Present appellant Jagtar Singh is a married man having a family. His wife Neelam as DW-1 fully supported the version of appellant/convict. Infact, ‘IS’ father of prosecutrix claimed share in the



property belonging to Gurmail Kaur DW-2 mother of appellants and because of this reason, dispute arose which has resulted into false implication of appellants, both sons of Gurmail Kaur DW-2.

Learned trial Court while deciding present case has failed to consider aforesaid factual position. Therefore, appeal preferred by appellant Jagtar Singh may kindly be accepted and judgment of conviction and order on question of sentence dated 24.03.2004 passed by the trial Court may kindly be set aside and appellant No. 1 Jagtar Singh be acquitted of the charge framed against him.

12. On the other hand, learned counsel representing State of Punjab pointed out that facts of the case and charges framed against appellant No. 1 Jagtar Singh were duly proved on record by leading convincing evidence. Prosecutrix examined as PW-3 fully corroborated the prosecution case. Her version is supported by her father 'IS' PW-5, mother 'AK' alias 'KK' PW-7. Ocular version is further supported by medical record proved on file by Dr. Kiran Bala PW-8. Investigation carried out in this case is proved by ASI Raj Kumar Investigating Officer examined as PW-9. At the time of occurrence, prosecutrix was minor. Her Birth Certificate was handed over by her mother which was taken into police possession vide recovery memo Ex.PA, duly proved on record by ASI Raj Kumar Investigating Officer PW-9 and recovery witness HC Chanchal Singh PW-1. Sudarshan Kumar Sharma, Local Registrar, Births and Deaths, Municipal Corporation, Ludhiana stepped into witness box as PW-4 to prove entry in their record regarding date of birth of prosecutrix, which is Ex.PW4/1. Dr. Ashok Raswant, Radiologist PW-2 has proved X-ray report Ex.PB and confirmed age of prosecutrix around 14 years.



Therefore, from the evidence led by prosecution, it is clear that prosecutrix who was young girl of 14 years of age was sexually exploited by appellant Jagtar Singh. Therefore, he was rightly found guilty under Section 376 and 506 of IPC and was rightly sentenced as referred above.

13. Learned counsel for petitioner/prosecutrix in CRR-2295-2004 mainly argued on the quantum of sentence passed by the trial Court. It was a case of gangrape falling under Section 376(g)(i) of IPC, therefore, learned trial Court was bound to award minimum sentence not less than 10 years rigorous imprisonment to convicts/respondents No. 1 and 2. Aforesaid provision was wrongly overlooked by the trial Court. Jagtar Singh-respondent No. 1/convict was close relative of family of prosecutrix. He had taken away the minor for helping his ailing mother and there she was sexually exploited. Respondent No. 1/convict Jagtar Singh deserved severe punishment. Therefore, criminal revision preferred by petitioner/prosecutrix may be accepted and sentence imposed by the trial Court may kindly be modified.

14. I have considered the arguments advanced by learned counsel for appellant No. 1 Jagtar Singh in CRA-S-964-SB-2004, learned counsel representing State of Punjab and learned counsel for petitioner/prosecutrix in CRR-2295-2004 and have gone through the trial Court record with their able assistance. Present FIR has been registered on the basis of statement of prosecutrix 'BK' alias 'M', who is a young girl of about 14 years of age. As per her version, paternal aunt of her father namely Gurmail Kaur was residing in Police Colony, Jamalpur. About two months ago, Jagtar Singh came to their house and asked her parents to send her (victim) to the house of his mother for help as she was to undergo eye surgery. Her parents had sent her



alongwith Jagtar Singh where she started residing with Gurmail Kaur. One day when Gurmail Kaur had gone out of the house to get pension, Jagtar Singh finding her alone in the house at about 01:00 pm committed forcible rape with her. She tried to raise alarm but her mouth was gagged. He threatened her not to disclose this incident to anybody, otherwise, he would kill her. Thereafter, prosecutrix has narrated another incident when eight days prior to Diwali she was again raped by Avtar Singh alias Noni in the same fashion. Prosecutrix alleged that she had disclosed this fact to Gurmail Kaur who told her to remain mum. Finally she disclosed about the incidents to her mother and after Diwali festival, matter was reported to police.

After investigation both Jagtar Singh and Avtar Singh were challaned and charge-sheeted individually by the trial Court regarding both incidents under Section 376, 506 of IPC. In order to prove charges, prosecutrix stepped into the witness box as PW-3 and fully corroborated her version i.e. statement recorded before ASI Raj Kumar as well as statement recorded before the Magistrate under Section 164 Cr.P.C. Ex.PD. Her version is supported by her parents 'IS' father PW-5 and 'AK' alias "KK' mother PW-7. Oral version of prosecutrix is supported by medical record proved on file by Dr. Kiran Bala PW-8. Learned counsel for appellant Jagtar Singh while advancing arguments has failed to point out any material discrepancy in the statements of aforesaid witnesses to shatter their credibility. Testimony of prosecutrix PW-3 is consistent, reliable and trustworthy and there is no valid reason to ignore the same. Prosecutrix at the time of occurrence was a young girl of 14 years of age. Her date of birth record is proved on file by examining Sudarshan Kumar Sharma PW-4. ASI Raj Kumar PW-9 and HC Chanchal



Singh PW-1 have proved recovery memo Ex.PA vide which Birth Certificate Ex.P1 produced by her mother was taken into police possession. Both appellants were relatives of father of prosecutrix. At the time of occurrence, appellant No. 1 Jagtar Singh was a married man who sexually exploited young girl of 14 years of age finding her alone in his mother's house. She was threatened to keep silent, otherwise she would be killed. Subsequently, she was again sexually exploited by Avtar Singh, another son of Gurmail Kaur when she was alone in the house. During the pendency of appeal, appellant No. 2 Avtar Singh expired and proceedings qua him stood abated vide order dated 26.09.2016.

15. In the grounds of appeal, appellants took the objection of holding joint trial and it was claimed that on account of this appellants have suffered prejudice. As per facts referred above, Jagtar Singh brought the prosecutrix to the flat of Gurmail Kaur since she was to undergo eye operation. In the same flat, prosecutrix was sexually exploited by both appellants. From the facts of case, it cannot be said that appellants Jagtar Singh and Avtar Singh had meeting of mind. Both incidents took place on different dates and at that point of time, other accused was not present in the premises. Therefore, in my opinion, it will not fit in the definition of gangrape. Occurrence took place in same premises twice in continuity when prosecutrix had come to stay with Gurmail Kaur. Therefore, appellants have not suffered any prejudice by holding their trial together regarding the aforesaid occurrences. Objection raised by appellants in their grounds of appeal is without any basis.

16. Learned counsel for appellant Jagtar Singh further raised the issue that there is delay in lodging report to police. Facts and circumstances of



case are to be looked into, to ascertain if there was any delay in lodging the report or not. Minor prosecutrix who was taken to the house of paternal aunt of his father was sexually exploited time and again by appellants. She was threatened not to disclose about these incidents to anybody. It has come in evidence that prosecutrix did talk about the occurrence to Gurmail Kaur mother of appellants/accused who advised her to keep mum. Prosecutrix finally disclosed about the occurrence to her parents and thereafter, matter was reported to police. In such like cases, when prosecutrix is of tender age it takes time for parents to make up their mind for lodging the report with police. At the time of lodging such report, honour of prosecutrix/victim and entire family is involved. Keeping in mind the aforesaid factual position, alleged delay in lodging report to police in my mind is not fatal to prosecution case.

17. Learned counsel for appellant No. 1 Jagtar Singh further raised the issue that version put forward by prosecutrix is highly improbable as place of occurrence is a flat situated in Police Colony, Jamalpur, which is a gated colony. This stand taken by learned counsel for appellant No. 1 Jagtar Singh does not convince the mind of this Court. It cannot be believed that no such like offence can take place in a flat surrounded by other flats and inhabited by others. Infact, such like incidents take place when victim is alone and helpless. Nobody knows what is happening next door. The manner in which occurrence took place, it is clear that prosecutrix was threatened and she was subjected to forcible rape.

18. Learned counsel for appellant No. 1 Jagtar Singh further raised the issue that father of prosecutrix lodged this false FIR through prosecutrix



due to property dispute. In defence, appellants/convicts examined Neelam DW-1 wife of Jagtar Singh and Gurmail Kaur DW-2 mother of appellants. In their statements, it came on record that father of prosecutrix lost his parents in his young age and thereafter, he was looked after by Gurmail Kaur and her husband Ram Kishan. Later on, Ram Kishan was killed by terrorist and in lieu of that Gurmail Kaur was given a flat to live in Police Colony, Jamalpur. From the facts of case and evidence on record, it is evident that 'IS' father of prosecutrix was residing separately in a rented accommodation and it was Jagtar Singh who had gone to his house to bring his daughter i.e. prosecutrix for looking after his mother Gurmail Kaur DW-2. There is nothing on record to show that 'IS' father of prosecutrix ever claimed any share in any property belonging to appellants or their mother Gurmail Kaur. No such litigation ever started. Therefore, defence raised by appellant No. 1 Jagtar Singh is without any basis and it appears to be after-thought.

19. In the light of aforesaid factual position and from the evidence led by prosecution, it is duly established that prosecutrix who was a young girl of 14 years of age was sexually exploited by appellant No. 1 Jagtar Singh and he was rightly held guilty for the offence punishable under Section 376 and 506 of IPC. Since, the facts of case does not indicate a case of gangrape, therefore, order on question of sentence dated 24.03.2004 passed by the trial Court does not require any interference. With this observation, **appeal preferred by appellant No. 1 Jagtar Singh i.e. CRA-S-964-SB-2004 and criminal revision preferred by petitioner/prosecutrix i.e. CRR-2295-2004 are, accordingly, dismissed** and judgment of conviction and order on question of sentence dated 24.03.2004 passed by learned Additional Sessions



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Judge (Adhoc), Ludhiana is, accordingly, upheld.

20. Sentence of appellant No. 1 Jagtar Singh in CRA-S-964-SB-2004 was suspended by the Coordinate Bench of this Court, now he is directed to surrender before learned Chief Judicial Magistrate, Ludhiana, within one month from today, failing which learned Chief Judicial Magistrate, Ludhiana would issue warrants of arrest to secure his presence and send him to jail to undergo the remaining sentence. Necessary intimation be sent to the concerned Court for information and compliance.

21. Pending miscellaneous application(s), if any, in both cases stand(s) disposed of accordingly.

22. A photocopy of this order be placed on the file of connected case mentioned above.

**(AMARJOT BHATTI)
JUDGE**

08.09.2025

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