



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

101

CRA-S-2249-SB-2004

Date of Decision: 08.05.2025

AMARJIT SINGH

.....Appellant

Vs.

STATE OF PUNJAB

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. S.S. Salar, Advocate, for the appellant.

Ms. Pratibha Bali, AAG, Punjab.

DEEPAK GUPTA, J. (ORAL)

In a case arising out of FIR No. 127 dated 16.11.2003 under Sections 342/376/511 IPC registered at Police Station Kurali, District Ropar, accused-Amarjit Singh (*now appellant*) was convicted by the Court of learned Additional Sessions Judge-cum-Presiding Officer, Fast Track Court, Rupnagar under Sections 342 and 354 IPC vide judgment dated 28.10.2004, though acquitting him under Sections 376/511 IPC. Vide a separate order dated 28.10.2004, the appellant was sentenced as under:-

Offence under Section	Period of imprisonment	Fine (in ₹)	Default sentence
Section 342 IPC	Six months RI	500/-	One month RI
Section 354 IPC	One and a half year RI	2000/-	Three months RI

Both the substantive sentences were directed to run concurrently.

2. Against the abovesaid judgment of conviction and sentence, present appeal has been filed.

3. It is contended by learned counsel for the appellant that trial Court failed to take into consideration the inherent contradictions appearing in the statements of the prosecution witnesses and the improbable story of the

**CRA-S-2249-SB-2004**

prosecution. Learned counsel has also made an alternative prayer that in case conviction is maintained, then the sentence of imprisonment be reduced to the period already undergone considering the fact that appellant is an old aged person and occurrence had taken place way back in November 2003 i.e., more than 21 years back.

4. Learned State counsel has opposed both the aforesaid prayers by pointing out that prosecutrix was just a 10-12 years aged girl, who was attempted to be raped by the appellant and that there was no reason to discard her testimony, as she has given vivid details regarding the manner of crime. Though, learned State counsel concedes the fact that State has not filed any appeal against acquittal of the appellant under Section 376/511 IPC, but she submits that looking into the nature of crime, the appellant does not deserves any leniency. She prayed for dismissal of the appeal.

5. This Court has considered submissions of both the sides and has appraised the record.

6. As per prosecution allegations, on 16.11.2003 at about 6:30 PM prosecutrix had gone to the shop of accused-appellant to purchase some merchandise (*bukram*). The said shop is being run by the accused in his house near Khubi Shah mandir on railway road. As she went in the shop and purchased the merchandise, the accused caught hold of her arm, dragged her in the rear room of the shop, threw her on the bed and tried to untied the string of her salwar. In this process, the string of the salwar was broken. The prosecutrix raised hue and cry in the loud voice, attracting one Ram Singh, the neighbour of the prosecutrix, at which accused left her and entered the adjoining room. Prosecutrix narrated the incident to Ram Singh, who caught hold the accused-Amarjit Singh. In the meantime, parents of the prosecutrix and other people also reached there. Prosecutrix narrated the incident to her parents also. Accused was taken to the police station, where statement of the prosecutrix was recorded. Accused was handed over to the police. FIR was registered. Necessary investigation was carried out and accused was put to trial.

**CRA-S-2249-SB-2004**

7. As the impugned judgment would reveal that the prosecutrix examined as PW3 fully supported prosecutrix version by giving details of the crime. She withstood the test of cross-examination and could not be discredited in any manner. Her statement was found to have been corroborated by PW-2-Ram Singh, who was attracted to the spot on hearing the loud voice of the prosecutrix.

8. The contention of learned counsel for the appellant is that it is not believable that mother of prosecutrix will send her to the shop in the evening at 6:30 PM in a winter season, when it became dark, and further the police did not take into possession the merchandise, which the prosecutrix had gone to purchase or the currency amount. It is also the contention that prosecutrix was a tutored witness.

9. This Court does not find any merit in the above contentions. It is not uncommon for a mother to send her child aged 12 years to purchase some merchandise from a shop located in the village itself. Simply because the prosecutrix child was sent at about 6:30 PM in a winter evening, in itself cannot be a reason to disbelieve the prosecution case. Further the cross-examination of the prosecutrix by defence counsel failed to elicit anything, which could give a hint that she was a tutored witness. A child aged 12 years is able to understand the things clearly and so, there is nothing to show that she was tutored in any manner.

10. After going through the reasoning as given by the trial Court, this Court does not find any illegality therein so as to find any mis-appreciation of evidence, or non-consideration of any material, which was produced on record.

11. As such, holding the present appeal against conviction to be devoid of any merit, the same is hereby dismissed. Conviction of the appellant under Section 342/354 IPC is maintained, considering the fact that prosecution did not file any appeal against acquittal of the appellant under Section 376/511 IPC.

12. Coming to the impugned order regarding the sentence, occurrence had taken place in November 2003 i.e., more than 21 years back. At that time, accused-appellant was 40 years of age, which means that by now he is about 62 years of age. Appellant has already undergone actual custody period of 27 days as



CRA-S-2249-SB-2004

per the custody certificate placed on record.

13. Although, these are the mitigating circumstances, but at the same time, Court cannot overlook the nature of crime committed by the accused-appellant, inasmuch as he attempted to commit rape upon a child aged 12 years belonging to his own Village. Though the trial Court has acquitted him of the charge under Section 376/511 IPC and was of the view that offence was covered under Section 354 IPC, this Court is not inclined to take a liberal view so as to release the appellant either on probation or to sentence him for the period already undergone by him as is prayed by learned counsel for the appellant.

14. Having regard to the aforesaid facts and circumstances, impugned order of sentence is hereby modified only to the extent that sentence of the appellant under Section 354 IPC is reduced to 01 year rigorous imprisonment. The remainder of the sentence shall remain as it is. The appellant is directed to surrender before the Court of learned Chief Judicial Magistrate, Rupnagar within 02 weeks positively so as to carry out the remaining sentence as per this order, failing which he will have to undergo entire sentence as imposed by the trial court. Learned Chief Judicial Magistrate, Rupnagar shall prepare the necessary jail warrant and send the appellant to the Jail concerned for carrying out the sentence.

15. Copy of this order be sent to CJM, Rupnagar immediately for compliance.

Disposed of.

May 08, 2025

Pry

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned
Whether Reportable

Yes
No