



CRA-S-1609-SB-2004

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

CRA-S-1609-SB-2004

Reserved on: 10.07.2025

Pronounced on:- 25.07.2025

**Roshan Lal @ Golla**

....Appellant

Versus

**State of U.T. Chandigarh**

....Respondent

**CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI**

Present:- Mr. Chandeeep Singh, Amicus Curiae  
for the appellant.

Mr. Pawan Kumar Dogra, Addl. P.P., U.T. Chandigarh.

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**AMARJOT BHATTI, J.**

1. Appellant/convict Roshan Lal @ Golla s/o Nand Lal has filed instant appeal against judgment of conviction and order on quantum of sentence dated 03.08.2004 passed by learned Additional Sessions Judge, Chandigarh, in Sessions Case bearing No. 41 dated 15.09.1999, titled as "State Vs. Rakesh Kumar alias Gittu and others" in FIR No. 257 dated 25.12.1998 under Section 363, 366 of IPC registered at Police Station South, District Chandigarh, vide which appellant is sentenced as under :-

Name of Convict	Offence U/s	Sentence
Roshan Lal	Under Section 363 of Indian Penal Code	To undergo rigorous imprisonment for five years and to pay a fine of Rs. 500/-. In default of payment of fine, to further undergo rigorous imprisonment for one month.
	Under Section 366 of Indian Penal Code	To undergo rigorous imprisonment for five years and to pay a fine of Rs. 500/-. In



		default of payment of fine, to further undergo rigorous imprisonment for one month.
	Under Section 376 of Indian Penal Code	To undergo rigorous imprisonment for seven years and to pay a fine of Rs. 500/-. In default of payment of fine, to further undergo rigorous imprisonment for one month.

2. As per the facts of case, on 25.12.1998 complainant 'NH' got recorded his statement with SI Om Parkash, Police Station South, Chandigarh. In his statement, he alleged that he was resident of Sector 32, Chandigarh. He was blessed with seven children and prosecutrix 'R' was the youngest one, aged about 14 years and was studying in 5<sup>th</sup> class in Primary School, Sector-33, Chandigarh. On 21.12.1998, she had gone to school at 08:00 am and did not return home. Prosecutrix's mother went to school to inquire about her, where she came to know that victim did not reach school on that day. Complainant and his family members kept on searching her but did not find any clue. On inquiry, he (complainant) came to know that son of his neighbour Nand Lal enticed and took away his daughter. On the basis of this report, case was registered under Section 363, 366 of Indian Penal Code, 1860 (for short 'IPC').

2.1 Investigation was commenced. Statements of complainant, his wife and others were recorded. During investigation, accused Vidyawati, Rakesh Kumar, Sonia and Rajbir were arrested. Later on, accused Lalit Kumar and Narinder Kaur were also found to be involved in alleged occurrence and accordingly, they were also arrested. However, no clue



regarding accused Roshan Lal was found. Accordingly, challan under Section 363/366/368/120-B of IPC against aforementioned accused was presented in Court.

2.2 Subsequently, prosecutrix was recovered from the possession of accused Roshan Lal on 02.06.1999 and accordingly, accused was taken in custody. Statement of prosecutrix under Section 161 Cr.P.C. was recorded. On the basis of statement of prosecutrix, offence under Section 376 of IPC was added. Prosecutrix was medically examined. Site plan of place of occurrence was prepared. After completion of necessary formalities, challan was presented in Court.

2.3 Accused were supplied complete set of copy of challan report as provided under Section 208 of Cr.P.C. Since the offence under Section 366, 376 of IPC was exclusively triable by the Court of Sessions, therefore, learned Judicial Magistrate 1st Class, Chandigarh committed the case to the Court of learned Sessions Judge, Chandigarh for trial vide commitment order dated 06.09.1999.

3. Finding a prima facie case against accused persons, accused Rakesh Kumar @ Gittu, Sonia @ Kesho, Rajbir @ Raju, Narinder Kaur, Lalit Kumar and Vidyawati were charge-sheeted under Section 368 and 120-B of IPC, whereas, accused Roshan Lal was charge-sheeted under Section 363, 366, 376, 506 and 120-B of IPC, to which they pleaded not guilty and claimed trial.

4. However, during the trial of this case, accused Sonia @ Kesho expired and proceedings qua her stood abetted vide order dated 29.11.2000.

5. In order to prove the facts of case, prosecution examined



complainant 'NH' as PW-1, wife of complainant 'N' as PW-2, Hemant Kumar Singha, LDC, Bijnour as PW-3, victim 'R' @'S' as PW-4, Shalinder @ Surinder as PW-5, Radha Devi as PW-6, Darshna Devi as PW-7, ASI Gian Chand as PW-8, HC Gurmail Singh as PW-9, Ct. Yash Pal as PW-10, Ct. Manglesh Kumar as PW-11, SI Om Parkash as PW-12, Ct. Sohan Singh as PW-13, Surinder Kumar alias Ballu as PW-14, Roshan Lal @Tony as PW-15, ASI Karnail Singh as PW-16, Pavitar Singh as PW-17, Manjit Singh as PW-18, Om Parkash as PW-19, Dr. Bidhi Chand, Medical Officer, Civil Dispensary, Phase-5, Mohali as PW-20, Baldev Singh as PW-21, Tirlok Nath, File Restorer, GMCH-32, Chandigarh as PW-22, SI Sher Singh as PW-23, Dr. Sanjeev, Sr. Scientific Officer, CFSL Sector-36, Chandigarh as PW-24 and Lady Constable Manjit Kaur as PW-25. Thereafter, learned Public Prosecutor for U.T. Chandigarh closed the prosecution evidence on dated 21.11.2003.

6. Statement of accused persons were recorded under Section 313 Cr.P.C. by the trial Court to which they pleaded innocence and false implication. Accused persons opted to lead evidence in defence. However, they did not lead any evidence and closed defence evidence.

7. After hearing arguments advanced by learned Public Prosecutor for U.T. Chandigarh and learned counsel representing accused persons, accused Rakesh Kumar, Rajbir alias Raju, Narinder Kaur, Lalit Kumar and Vidyawati were acquitted of the charges framed against them, whereas, accused Roshan Lal was held guilty and convicted under Section 363, 366 and 376 of IPC vide judgment of conviction dated 03.08.2004 and order on quantum of sentence was passed by learned Additional Sessions Judge,



Chandigarh vide separate order of even date, as referred above. Feeling aggrieved of this judgment of conviction and order of sentence, appellant Roshan Lal has filed present appeal.

8. Learned counsel representing appellant argued that appellant has been wrongly convicted and sentenced by learned Additional Sessions Judge, Chandigarh without proper appreciation of the facts of case and evidence on record.

8.1 Learned counsel for appellant/convict raised the issue that there is delay in lodging the report to police. As per the version of complainant 'NH', his daughter left the house on 21.12.1998 at about 08:00 am for going to school and thereafter, she did not return home. Finally, she was recovered on 02.06.1999. During this period, she allegedly stayed with appellant and travelled to various places, but she never raised any alarm. There is clear evidence on record that alleged victim accompanied appellant with her free consent.

8.2 Learned counsel further raised the issue that prosecution had failed to prove on record the age of victim. Prosecution had examined Hemant Kumar Singha, L.D.C. Bijnour as PW-3, who has proved one entry in register Ex.PA showing date of birth of victim as 07.03.1984. Cross-examination of this witness has been totally ignored. He categorically stated that no affidavit was given by the parents of victim at the time of registration of date of birth. He further conceded that said entry is not in his hands nor he could say that same was correct or incorrect. Testimony of such witness cannot be looked into. As per report of Radiology Mark DB, the victim at the time of her medical examination was between age group 12 to 17 years. Testimony of



parents of victim regarding date of birth is shaky and same cannot be relied upon. 'NH' father of victim as PW-1 stated that his youngest son was born in the year 1982 and regarding the victim who is youngest in the family was born in March, 1982. Therefore, regarding birth of both his son and daughter, he has given same year of birth. Even mother of victim 'N' as PW-2 could not give exact date of birth of her daughter. She could not tell after how many years of her marriage victim was born. Infact, victim was more than 16 years of age. She willingly accompanied appellant and travelled to various places and also stayed with him for a long duration of about 06 months and never raised any protest. Therefore, alleged victim was consenting party. This aspect of the case has been totally ignored by learned trial Court.

8.3 Learned counsel representing appellant further referred to testimony of Radha Devi (PW6) as well as Om Parkash (PW19) who has mentioned the name of boy and girl differently. Radha Devi (PW6) mentioned the name of victim as Sameena @ Rihana, whereas, Om Parkash (PW19) mentioned the name of boy as Ravi and girl as Seema. This fact creates serious doubt regarding the identity of accused as well as the victim.

8.4 Lastly, learned counsel representing appellant pointed out that in the case in hand, medico legal report of victim has not been proved on record by examining the doctor who had prepared said MLR. Prosecution examined Tirlok Nath, File Restorer (PW22) who produced record and in his statement MLR of victim has been proved as Ex.P32. During cross-examination, this witness categorically stated that he cannot identify the signatures or handwriting of Dr. Inder Pal Singh, who has already left the job. Therefore, medico legal report Ex.P32 cannot be looked into.



8.5 Learned counsel for appellant argued that while holding the appellant guilty for the offence under Section 363, 366, 376 of IPC, aforesaid facts have been totally ignored and consequently, he has been wrongly sentenced thereunder. It is submitted that appeal preferred by appellant/convict may kindly be accepted and he may be acquitted of the charges framed against him.

9. Learned Additional Public Prosecutor representing U.T. Chandigarh argued that facts of the case and evidence on record were rightly considered by learned trial Court and appellant was rightly held guilty under Section 363, 366 and 376 of IPC. Quantum of sentence imposed upon him does not require any interference. Learned Additional Public Prosecutor representing U.T. Chandigarh has relied upon the judgment of **Coordinate Bench** in case titled “**Om Parkash Versus State of Haryana**” **1999(1) RCR (Criminal) 265**, where on the basis of judgment of Supreme Court, evidentiary value of the testimony of prosecutrix was enunciated as under:-

*“12. Thus, it was observed by the Supreme Court that in sexual offences delay in the lodging of the FIR can be due to variety of reasons particularly the reluctance of the prosecutrix or her family members to go to the police and complain about the incident which concerns the reputation of the prosecutrix and the honour of her family. It was further observed by their Lordships that it is only after giving it a cool thought that a complaint of sexual offence is generally lodged. Further it was observed that the courts can always base conviction even on the uncorroborative testimony of the prosecutrix if it inspires confidence as the statement of the prosecutrix has to be appreciated and assessed like that of an injured witness. It was further observed that to call the prosecution to always give corroboration in sexual offences would amount to adding insult to the injury of the prosecutrix.”*



9.1 In the case in hand, it is pointed out that victim was minor girl, less than 16 years of age. She on 21.12.1998 was allured and kidnapped by appellant. She was sexually exploited and finally she was recovered on 02.06.1999. Prosecution examined victim as PW-4 who fully supported her version. Both parents of victim i.e. 'NH' father PW-1 and 'N' mother PW-2 also corroborated the version of victim. Age of victim is proved by aforesaid witnesses. Prosecution examined Hemant Kumar Singha, L.D.C. Bijnour as PW-3 who proved date of birth entry of victim which clearly indicates that she was born on 07.03.1984. Therefore, at the time of occurrence, she was 14 years 9 months old and her consent does not carry any weight.

9.2 Learned Additional Public Prosecutor representing U.T. Chandigarh raised the issue that delay in lodging the FIR is well explained in present case. Victim left the house on 21.12.1998. On the same day mother went to school to inquire about her daughter and thereafter, entire family started searching for victim. Radha Devi PW-6 also confirmed that both families were searching for their children. When complainant failed to locate the whereabouts of his daughter, matter was reported to police on 25.12.1998. Therefore, alleged delay is not fatal to prosecution case. Learned Additional Public Prosecutor representing U.T. Chandigarh has relied upon the judgment of **Supreme Court of India**, case titled "**State of Himachal Pradesh Versus Gian Chand**" **2001(2) RCR (Criminal) 666**, where in para No. 12 regarding delay in lodging FIR, it was observed as under :-

*"12. Delay in lodging the FIR cannot be used as a ritualistic formula for doubting the prosecution case and discarding the same solely on the ground of delay in lodging the first information report. Delay has the effect of putting the Court in its guard to*



*search if any explanation has been offered for the delay, and if offered, whether it is satisfactory or not. If the prosecution fails to satisfactorily explain the delay and there is possibility of embellishment in prosecution version on account of such delay, the delay would be fatal to the prosecution. However, if the delay is explained to the satisfaction of the Court, the delay cannot by itself be a ground for disbelieving and discarding the entire prosecution case.....”*

9.3 Objection raised by learned counsel for appellant for not examining the doctor who medically examined victim does not affect merits of the case. MLR of the victim has been proved by examining Tirlok Nath, File Restorer as PW-22, who produced official record in his official capacity. MLR is Ex.P32. Dr. Bidhi Chand, Medical Officer PW-20 has proved MLR of appellant/convict Roshan Lal, which is Ex.P31. Report of CFSL is Ex.P42, according to which seminal stains were found on exhibit-1 i.e. *salwar*, exhibit-2 i.e. underwear, whereas, no seminal stains were found on other exhibits. Sealed parcel containing clothes of victim is Ex.P43 and parcel containing belongings of Roshan Lal is Ex.P44. Therefore, medical record duly corroborated the allegations of rape against appellant/convict.

9.4 Therefore, there is ample evidence on record to prove charge-sheet against appellant/convict. Appeal preferred by him is without merits and same deserves dismissal.

10. I have considered the arguments advanced by learned counsel representing appellant and learned Additional Public Prosecutor representing U.T. Chandigarh and have gone through the evidence led before the trial Court with their able assistance. FIR was lodged on 25.12.1998 on the statement of ‘NH’ father of victim. Complainant alleged that on 21.12.1998,



victim i.e. his daughter age about 14 years, studying in 5<sup>th</sup> class left the house for going to school at 08:00 AM and did not return home. Mother of victim inquired from school and came to know that she had not come to school on that day. Family started searching for victim but could not locate her. However, they came to know that victim was enticed away by Roshan Lal @ Golla s/o Nand Lal living in their neighbourhood. With these allegations, present FIR was registered on 25.12.1998. Victim was recovered on 02.06.1999 and thereafter, investigation was concluded and present appellant/convict Roshan Lal @ Golla alongwith other co-accused were challaned in this case. As per judgment dated 03.08.2004, accused Rakesh Kumar alias Gittu, Rajbir alias Raju, Narinder Kaur, Lalit Kumar and Vidyawati were acquitted of the charge framed against them under Section 120-B, 368 of IPC. Appellant Roshan Lal alias Golla was convicted and sentenced under Section 363, 366 and 376 of IPC. Prosecution examined 'NH' father of victim as PW-1 and 'N' mother of victim as PW-2, who fully corroborated the facts narrated in FIR No. 257 dated 25.12.1998 (supra) Ex.P19. Apart from the testimony of aforesaid witnesses, prosecution examined Radha Devi PW-6, who also confirmed that victim and appellant/convict got missing and both families were searching for them.

11. Prosecution has examined prime witness i.e. victim as PW-4, who categorically stated that on 21.12.1998 on her way to school, she met Roshan Lal @ Golla. He threatened to accompany him, otherwise, he would kill her father. She has given detail how she was taken from one place to other. They resided in the house of brother of appellant/convict at Village Balachaur, District Hoshiarpur. They also stayed at Hallomajra, Ambala Cant.



They stayed in a rented room of Om Parkash at Sector-25, Chandigarh. Finally both of them were caught by police from Bus Stand, Sector-17, Chandigarh. Victim claimed in her examination-in-chief that she was kidnapped by threatening her and Roshan Lal-appellant raped her against her wishes. Cross-examination of victim indicates that she alongwith Roshan Lal was going from one place to the other. They used public transport. At places police officials were also on duty and public was also roaming here and there. At no point of time, victim neither protested nor raised any alarm. She lived in a rented *jhuggi*/room at Sector-25, Chandigarh for about four months, even there she never alleged that she was being kept by Roshan Lal forcibly. Prosecution examined Om Parkash as PW-19, who confirmed that accused had stayed in his *jhuggi* as tenant @ Rs. 200/- per month for a period of about one and a half months. He further stated that they had disclosed their names as Ravi and Seema. During the course of arguments, learned counsel for appellant/convict raised the issue that victim accompanied appellant/convict willingly and she was consenting party.

12. I have considered the aforesaid factual position. Even if for the sake of arguments, it is considered that victim examined as PW-4 was consenting party, that does not help the case of appellant. At the time of recording of statement of victim as PW-4, she was about 17 years of age. Occurrence took place on 21.12.1998. Prior to Act 13 of 2013, Section 375 IPC defining rape, as per 6<sup>th</sup> Clause, it is specially mentioned as “With or without consent, when she is under sixteen years of age.” After the aforesaid amendment, now age of 16 years has been substituted by 18 years of age. Since, said occurrence took place prior to aforesaid amendment in Section



375 of IPC, case in hand is to be considered under old provision.

12.1 In order to prove the age of victim, prosecution examined Hemant Kumar Singha, L.D.C. Bijnour as PW-3, who produced summoned record of Municipal Corporation, Bijnour i.e. Birth Register of the year 1984. At serial No. 144 of said register, there is entry regarding birth of victim, daughter of 'NH', Mohalla Ladpura. Relevant entry is Ex.PA, according to which date of birth of victim is mentioned as 07.03.1984. 'NH' father of victim PW-1 and 'N' mother of victim PW-2 deposed regarding age of their daughter. Both witnesses stated that at the time of occurrence, their daughter was 14 years of age, studying in 5<sup>th</sup> standard. SI Sher Singh PW-23 also confirmed that during investigation complainant had produced Birth Certificate of his daughter Mark A, which was taken into police possession vide recovery memo Ex.P2. It cannot be expected that official who made this entry in the year 1984 would come and depose in the Court. Once, date of birth record of victim is duly proved on record by examining official witness, arguments advanced by learned counsel for appellant/convict disputing said record does not hold any ground. Learned counsel for appellant/convict referred to Radiology Report dated 23.08.1999 Mark-DB, where on the basis of X-ray reports, bone age of victim was mentioned between 12 to 17 years of age. The Ossification Test report is material and relevant when there is no documentary proof regarding age of victim. In the case in hand, prosecution has proved relevant entry of register of Municipal Corporation, Bijnour Ex.PA, confirming date of birth as 07.03.1984. Therefore, at the time of said occurrence, victim was 14 years 9 months of age. The consent of minor did not carry any weight. Therefore, from the evidence led by prosecution, it is



duly established that appellant/convict allured victim to accompany him. She was kidnapped on 21.12.1998 and finally recovered on 01.06.1999 after a period of more than five months.

13. The victim was medically examined by Dr. Inder Pal Singh, Emergency Medical Officer. He left the job and record was deposited in record room. Under these circumstances, said doctor could not be examined. Prosecution examined Tirlok Nath, File Restorer as PW-22, who produced MLR of victim from the official record. Said MLR is Ex.P32 and CFSL report is Ex.P42, proved by Dr. Sanjeev, Senior Scientific Officer and Head of Department, CFSL, Sector-36, Chandigarh PW-24. As per this report, seminal stains were detected on *salwar* and underwear of victim. Dr. Bidhi Chand, Medical Officer PW-20 proved MLR of Roshal Lal, which is Ex.P31 and as per opinion of doctor, there was nothing to suggest that accused was unable to perform sexual intercourse. From statement of victim as PW-4 coupled with medical record, it is duly established that victim was subjected to sexual intercourse by appellant/convict.

14. Prosecution examined SI Om Parkash PW-12, who initially conducted investigation in this case. SI Sher Singh PW-23 and ASI Karnail Singh PW-16 also proved investigation carried out by them from time to time.

15. Therefore, arguments advanced by learned counsel for appellant does not hold any ground. Learned Additional Sessions Judge, Chandigarh rightly appreciated the facts of case and evidence led by prosecution. Considering the evidence on record, learned trial Court rightly held appellant Roshan Lal guilty under Section 363, 366 and 376 of IPC. Considering the manner in which offence has been committed and the fact that victim was less



than 16 years of age, who was kept away from lawful guardianship of her parents for a period of more than five months, quantum of sentence awarded by learned trial Court as referred above does not require any interference. Consequently, judgment of conviction and order on quantum of sentence dated 03.08.2004 passed by learned Additional Sessions Judge, Chandigarh is, accordingly, upheld.

16. Present appeal preferred by appellant Roshan Lal @ Golla s/o Nand Lal is, accordingly, dismissed. Sentence of appellant Roshan Lal @ Golla was suspended by the Coordinate Bench of this Court, now he is directed to surrender before learned Chief Judicial Magistrate, Chandigarh, within one month from today, failing which learned Chief Judicial Magistrate, Chandigarh 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.

17. Pending miscellaneous application(s), if any, stand(s) disposed of accordingly.

**(AMARJOT BHATTI)**  
**JUDGE**

**25.07.2025**

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