

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 1038 OF 2003

STATE OF PUNJAB

Appellant (s)

VERSUS

JOGINDER SINGH

Respondent(s)

(With office report)

Date: 16/09/2008 This Appeal was called on for hearing today.

CORAM :

HON'BLE Dr. JUSTICE ARIJIT PASAYAT
HON'BLE DR. JUSTICE MUKUNDAKAM SHARMA

For Appellant(s)

Mr. Ajay Pal,Adv.

For Respondent(s)

Mr. Rajat Sharma,Adv.
Mr. Siddhartha Singh,Adv.
Mr. A.P. Mohanty,Adv.

UPON hearing counsel the Court made the following
ORDER

The appeal is dismissed in terms of the signed order.

(Shashi Bala Vij)
Court Master

(Neena Verma)
AR-cum-PS

Signed order is placed on the file.
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1038 OF 2003

State of Punjab

...Appellant

Versus

Joginder Singh

...Respondent

ORDER

Heard.

This appeal has been filed by the State, questioning correctness of the judgment rendered by a learned Single Judge of the Punjab and Haryana High Court. The respondent faced trial for alleged commission of offence punishable under Section 376 of the Indian Penal Code, 1860 (in short 'the IPC'). He was found guilty by the Trial Court and sentenced to ten years' rigorous imprisonment.

The prosecution version, as unfolded during trial, was that on 26.06.1999, the victim was enticed by the accused and subsequently was subjected to rape. She was found in an unconscious state on the next day. She was aged about twelve years at the time of incident. Accused preferred an appeal before the High Court. The High Court found that no explanation was given as to why the victim was sent for medical examination after about ten days.

-2-

Additionally, it was found that the version, as projected by her at different points of time, was different. In addition, the mother of the victim categorically admitted that the accused had not committed rape on the victim. Therefore, the High Court was of the view that the appropriate conviction would be under Section 354 IPC. Two years' rigorous imprisonment was imposed and the accused was asked to pay a fine of Rs.2,000/- with default stipulations.

Though learned counsel for the State referred to the evidence of the prosecutrix, we find that on a reading of the evidence on record and the factors highlighted by the High Court to alter the conviction to Section 354 IPC, the impugned judgment do not suffer from any infirmity to warrant interference. The appeal fails and is dismissed.

.....J.
(Dr. ARIJIT PASAYAT)

.....J.
(Dr. MUKUNDAKAM SHARMA)

New Delhi,

September 16, 2008.