

Hukum Chand Inder Singh Vs. the State

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Court : Punjab and Haryana

Decided On : Sep-26-1961

Reported in : 1962CriLJ715

Judge : P.D. Sharma, J.

Appellant : Hukum Chand Inder Singh

Respondent : The State

Judgement :

P.D. Sharma, J.

1. Hukam Chand aged 42 years, Head Con-Stable of Police (under suspension) attached to the police post Doraha, appeals to this Court against the order of the learned Sessions Judge, Patiala, convicting him under Section 376 read with Section 511, Indian Penal Code, and sentencing him to one year's rigorous imprisonment. The charge against him was that he on 26th October, 1960, at about 7-30 p.m. at the end of the platform of railway station, Doraha towards Ludhiana attempted to commit rape on Kumari Mohinder Kaur and in such attempt criminally assaulted her by embracing her, making her lie on the ground and opening the string of her salwar. Prosecution story in brief is as follows:

2. Kumari Mohinder Kaur (P.W. 3), a minor girl of 12 or 13 years, on 26th October, 1960, at about 7-30 p.m. was waiting for her father, Tota Ram (P.W. 10), on a

platform at railway station, Doraha, who was expected by eight O'clock train. Hukam Chand accused happened to pass by her side and enquired as to why was she sitting there. She explained the object of her visit to the place in precise terms. He held her by the arm and took her to the lonely end of the platform. There he made her lie on the ground, opened the string of her salwar and unbuttoned his trousers as well. She raised an alarm and also resisted in the course of which she received a minor injury under her chin. Gurmel Singh (P.W. 4) had seen the Head Constable taking the girl to one end of the platform. He disclosed the fact to Karnail Singh (P.W. 7). Both of them out of curiosity proceeded in the direction the accused and the girl had left. They heard as if the girl was crying. It made them rush to the place of occurrence where they saw that the accused was lying on the girl with his trousers unbuttoned. Her salwar also was noticed untied. Both these persons caught hold of the accused. In the meantime the train had arrived and brought Tota Ram to Doraha. He along with one Jiwan Singh (P.W. 9) and so many others collected round the accused and marched him to the police post. The accused was given good beating by the crowd for his having indulged in an act unbecoming of a policeman. He was left in the charge of foot constables, Inder Singh (P.W. 11) and Joginder Singh (P.W. 12) while the people went towards the house of Kuldip Chand, Assistant Sub Inspector of Police (P.W. 13). The accused managed to escape. Kumari Mohinder Kaur lodged the first information report.

3. There was a commotion in the town on account of this incident which brought senior police officers on the scene. The accused was not to be found. He was arrested from the G. T. Road at about 4-0 p.m. on 'the following day. Dr. V. B. Chawla (P.W. 2) examined him soon after his arrest and noticed on his body marks of six contusions, two abrasions and an irregularly abraded area 12' x 9i' on the upper two-third part of back scarcely scattered over the lower portion and thickly scattered over the upper portion.

4. Dr. Raghbir Singh (P.W. 1) examined Kumari Mohinder Kaur on 26th October, 1960 at 9-30 p.m. and found only one abrasion mark 1/2' x 1/8' situated below her chin.

5. The accused pleaded not guilty to the charge and added that he was not even present at the time of the occurrence and was at Gobindgarh, where he sought admission in the local civil hospital . He explained that injuries were received by him in the act of recovering property during the investigation of a case Under Section 457, I. P. Code, entrusted to him on 22nd October, 1960. He also stated that there were two parties in Doraha and that Chanan Singh was arrested by him under the Indian Arms Act, who had involved him in a false case.

6. Kumari Mohinder Kaur (P.W. 3) deposed in terms of the prosecution story but did not say that the accused after unbuttoning his trousers laid on her. In the first information report she made no mention of the untying of her salwar and unbuttoning of the accused's trousers and also of the fact that she received the chin injury in her attempt to resist the accused. Karnail Singh (P.W. 7) corroborated the prosecution story in all material particulars. His statement was recorded by the police on the following day. Gurmel Singh (P.W. 4) did not support the prosecution inasmuch as he pointed towards one Ram Nath standing in the Court at the time of the trial and said that he was the culprit and not the accused. Kartar Singh (P.W. 8), Jiwan Singh (P.W. 9) and Tota Ram (P.W. 10) were certain that they reached the spot soon after the occurrence and found the accused in the custody of Karnail Singh (P.W.) who admitted his mistake and prayed for pardon. Foot constable Inder Singh (P.W. 11) and foot constable Joginder Singh (P.W. 12) stated that a large number of persons brought Hukam Chand Head Constable to the police post at about 8-30 p.m. on 26th October, 1960. The learned Sessions Judge was convinced that the accused was the culprit in the case. He rightly observed that Gurmel Singh had been won over and so discarded his testimony. Human Mohinder Kaur, Karnail Singh, Jiwan Singh, Tota Ram, Kartar Singh and the two foot constables could not have mistaken the accused's identity. Their statements found support from the fact that the accused at the time of his arrest bore injury marks on his body.

7. The accused's plea that at the time of occurrence he was at Gobindgarh does not find serious support from the evidence on the record. Gurjit Singh (P.W. 15), Assistant Sub Inspector of police, gave out that the accused reached Gobindgarh police post on 26th October, 1960, at 10-35 p.m. and that he recorded this fact in

the rozenamcha. There is no reason to disbelieve him. It is correct that the entry in the rozenamcha had been tampered with particularly at the place where the time was recorded. In the learned Sessions Judge's opinion it might have been done at the instance of the accused himself. This seems to be correct as nobody else stood to gain thereby. His going to the hospital at Gobindgarh for treatment on the same night and suddenly disappearing from there without the permission or knowledge of the doctor in charge (P.W. 5) makes his conduct highly suspicious. It rather supports the prosecution than his plea of alibi. Similarly his explanation of the injury marks noticed on his body at the time of arrest to say the least is clumsy. If a policeman had been manhandled while discharging his duties, the matter could not have been ticked off so lightly. He produced no evidence to substantiate the circumstances in which the injuries were given to him. It was a false plea and deserves no further consideration.

8. There can be no doubt that the accused-appellant was responsible for the occurrence. It also cannot be seriously disputed that Kumari Mohinder Kaur while giving her statement in the trial Court improved on her version as incorporated in the first information report. She did not state while lodging the first information report that the accused had untied her salwar and opened buttons of his trousers and that she received the chin injury in her effort to resist the accused, Karnail Singh (P.W. 7) exaggerated the matter beyond all proportions. He gave out that as soon as lie and Gurmel Singh reached the spot they noticed the girl lying on the ground with the accused on her. The prosecutrix herself even did not go to that extent. Moreover, if she had been made to lie down on the rough ground by force and against her will, in the manner suggested by the prosecution, she would have in all probability received some injuries, however slight on her back and other parts of the body. The absence of such injury marks and the fact that her clothes were not found even slightly torn go a long way in showing that the story in regard to the untying of her salwar, unbuttoning of the accused's trousers and his making her lie down on the ground is false and indeed is a crude attempt to magnify the occurrence.

The rest of the prosecution version is correct but it fails to make out a charge of attempt to rape against; the accused-appellant. In order to find the accused guilty

of attempt to rape, the Court should be satisfied that when he laid hold of the prosecutrix he not only desired to gratify his passions upon her person, but that he intended to do so at all events, and notwithstanding any resistance on her part. The facts proved on the record do not come up to this and unmistakably bring the case more within the ambit of Section 354, Indian Penal Code, as the accused by behaving in the manner he did with Kumari Mohinder Kaur must have intended to outrage her modesty or knowing it to be likely that he would thereby outrage her modesty.

9. For the above reasons, the appeal is accepted to the extent that the accused is now convicted Under Section 354, Indian Penal Code, and the sentence is reduced from one year's rigorous imprisonment to six months' rigorous imprisonment. The appellant must surrender to his bail bond.

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