

**SUPREME COURT OF INDIA**

Baldev Singh

Vs.

State of Punjab

Crl.A.No.749 of 2007

(Markandey Katju and Gyan Shdha Misra JJ.,)

22.02.2011

**ORDER**

1. This appeal has been filed against the impugned judgment dated 27.0.2005 IN CRLA No. 242 of 1999 of the High Court of Punjab & Haryana at Chandigarh. The facts of the case have been set out in the judgment of the High Court and hence we are not repeating the same here, except where necessary. The prosecution case is that on 03.03.1997 at about 6.30 A.M. the prosecutrix was coming to her house after answering the call of nature. The three appellants caught her and took her into a house and raped her and beat her. After police investigation the appellants were charge sheeted, and after a trial were convicted under Section 376 (2) (g) and Section 342 I.P.C. and sentenced to 10 years R.I. and to pay a fine of Rs. 1,000/- each. The sentence was upheld by the High Court, and hence this appeal.

2. Admittedly the appellants have already undergone, about 3 and years imprisonment each. The incident is 14 years old. The appellants and the prosecutrix are married (not to each other). The prosecutrix has also two children. An application and affidavit has been filed before us stating that the parties want to finish the dispute, have entered into a compromise on 01.09.2007, and that the accused may be acquitted and now there is no misunderstanding between them. Section 376 is a non compoundable offence, However, the fact that the incident is an old one, is a circumstance for invoking the proviso to Section 376 (2) (g) and awarding a sentence less than 10 years, which is ordinarily the minimum sentence under that provision, as we think that there are adequate and special reasons for doing so.

3. On the facts of the case, considering that the incident happened in the year 1997 and that the parties have themselves entered into a compromise, we uphold the conviction of the appellant but we reduce the sentence to the period of sentence already undergone in view of the proviso to Section 376 (2) (g) which for adequate and special reasons permits imposition of a lesser sentence. However, we direct that each of the appellant will pay a sum of Rupees 50,000/- by way of enhancement of fine to the victim envisaged under Section 376 of the IPC itself. The fine shall be paid within three months from today. In the event of failure to pay the enhanced amount of fine it will be recovered as arrears of land revenue and will be given to the victim.

4. The appeal is disposed off.