

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

CRA-S-3493-SB of 2015 (O&M)

Date of decision: 05.10.2015

Gaurav

...Appellant

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Balkar Singh, Advocate for the appellant.

Mr. Arun Luthra, AAG, Haryana
for the State.

Jitendra Chauhan, J.

The present appeal is directed against the judgment of conviction and order of sentence dated 13.07.2015, passed by the Addl. Sessions Judge, Yamuna Nagar at Jagadhri, vide which the accused/appellant Gaurav, was convicted for the offence punishable under Section 09 of the Prohibition of Child Marriage Act, 2006 (hereinafter called as 'the Act') and sentenced him to undergo rigorous imprisonment for a period of six months.

The prosecution case against the appellant is that on 23.08.2014, the appellant allured the victim and had contracted a child marriage with her.

On commitment, the accused was charged under Sections 120-B, 366, 376(2)(n) read with Section 120-B of the Indian Penal Code, under Section 5(1) (punishable under Section 6) of the Protection of Children from Sexual Assault Act, 2012 and under Section 09 of the Act, to which the accused/appellant pleaded not guilty and claimed trial.

In support of the case of prosecution, it examined PW-1 Dr. Monisha Gulati; PW-2 SI Rishi Kumar; PW-3 Constable Sanjeev Kumar; PW-4, Jaswant Singh, complainant; PW-5 Kailash Chand; PW-6 victim herself; PW-7 Rishi Pal, Civil Registration Assistant, office of Civil Surgeon, Kurukshetra; PW-8, Sachin Kumar, JMIC, Jagadhri; PW-9 Dr. Karan Dhawan, Medical Officer; PW-10 Ram Kumar Draftsman; PW-11, Vijay Sharma, priest; PW-12 Inspector Virender Singh, the then SHO PS Radaur; PW-13 ASI Ram Kumar, Investigating Officer; PW-14 Constable Rajiv Kumar; PW-15 Constable Usha Ram; PW-16 Dr. Sumita and PW-17 HC Virender Kumar.

The statement of the accused under Section 313 Cr.P.C., was recorded. He pleaded innocence and alleged false implication.

The accused/appellant did not lead any evidence in his defence.

After hearing the Public Prosecutor for the State, the Counsel for the accused, and after going through the evidence, on record, the trial Court convicted and sentenced the accused/appellant, as stated hereinbefore.

Feeling aggrieved against the judgment of conviction and the order of sentence passed by the Trial Court, the instant appeal was filed by the accused/appellant which was admitted on 22.09.2015.

The learned counsel for the appellant does not press the appeal on merits and submits that the victim is now 17 ½ years of age and appellant is now of 21 years of age. Both of them are living happily as husband and wife. The appellant has never misused the concession of bail during the trial. He is a first offender and he has already undergone almost the complete sentence out of substantive sentence of six months. Thus, the learned counsel prays for a lenient view on the quantum of sentence imposed by the trial Court.

On the other hand, the learned State counsel opposes the prayer of appellant/accused and supported the judgment of conviction and order of sentence passed by the trial Court.

I have heard the arguments of the learned counsel for the parties and has carefully gone through the record of the case.

The prosecution case is fully proved by the statements of the prosecution witnesses. There is no flaw in the unassailed

judgment of conviction. There is no merit in this appeal which is dismissed on merits. The conviction is upheld.

However, keeping in view the mitigating circumstances that the appellant and the victim are living happily as husband and wife being major; the appellant is a young man of 21 years of age and is stated to be a first time offender, this Court feels that the petitioner deserves for leniency. The appellant was on bail during the trial has never misused the concession of bail. He has already undergone 5 months and 23 days almost the complete out of the substantive sentence of six months. In view of the above, the prayer made on behalf of the appellant regarding reduction of sentence is accepted. The sentence awarded to the appellant is ordered to be reduced to the period already undergone. Ordered accordingly.

The appellant is directed to deposit a fine of Rs.5000/- before the Trial Court, within two months from today. In case of non-payment of fine, he will further undergo simple imprisonment for one month. It is made clear that if the amount of fine is not paid, within the stipulated period, the present appeal shall be deemed to be dismissed without any notice and the appellant has to undergo the remaining part of the sentence.

With the above reduction in the sentence, this appeal fails on merit and is dismissed.

05.10.2015

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(JITENDRA CHAUHAN)
JUDGE