

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Revision No. 3560 of 2014
Date of decision: 15.1.2015**

Neeraj @ Sonu

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Nipun Vashist, Advocate
for the petitioner.

Mr. Rajiv Doon, AAG, Haryana.

SABINA, J.

Petitioner had faced the trial qua commission of offence punishable under Section 376 of the Indian Penal Code, 1860 ('IPC' for short) and Section 4 of Prevention of Children from Sexual Offences Act, 2012 ('Act' for short) in FIR No. 17 dated 24.1.2013, registered at Police Station Sarai Khawaja, Faridabad. Trial Court vide judgment/order dated 2.6.2014/3.6.2014 ordered the conviction and sentence of the petitioner under Section 376 IPC and Section 4 of the Act. Aggrieved against the judgment/order of his conviction and sentence, petitioner preferred an appeal and the same was dismissed by the Appellate Court vide order dated 6.9.2014. Hence, the present petition by the petitioner.

Learned counsel for the petitioner has submitted that prosecution had failed to prove its case. The age of the prosecutrix had not been duly proved before the Trial Court. Petitioner has been falsely involved in the case.

Prosecution story, in brief, is that prosecutrix was a student of 8th class. On 24.1.2013, at about 3.30 P.M., she had returned home from her school and was alone in her house. Petitioner, who was her neighbour, came to her house and told her that his sister was calling her to their house. Prosecutrix went along with the petitioner to his house, although, initially she had shown some reluctance. When the prosecutrix reached the house of the petitioner, she found that there was no one present in his house. Petitioner locked the door from inside and raped the prosecutrix. On the basis of the statement of the prosecutrix, formal FIR was registered.

During trial, prosecutrix appeared in the witness box as PW-3 and deposed as per the contents of the FIR.

PW-2 Harish Chander proved school record qua the date of birth of the prosecutrix and as per the same, the date of birth of the prosecutrix was 19.1.1999. Thus, the prosecutrix was less than 16 years of age at the time of occurrence. There was no evidence to the contrary. Hence, the Courts below rightly held that the date of birth of the prosecutrix was 19.1.1999.

PW-4 Dr. Samriti deposed that she had medico-legally examined the prosecutrix on 24.1.2013 and possibility of sexual intercourse could not be ruled out.

PW-5 Mamta Devi, mother of the prosecutrix and PW-7 Sanjay Kumar, father of the prosecutrix, have deposed qua the occurrence as disclosed to them by the prosecutrix.

In the present case, statement of the prosecutrix was duly corroborated by medical evidence. The prosecutrix had no reason to falsely involve the petitioner in this case. Both the Courts

below after going through the evidence on record, have held that

petitioner was guilty of offence punishable under Section 376 IPC and Section 4 of the Act. Learned counsel for the petitioner has failed to point out any misreading of evidence by the Courts below.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

January 15, 2015

Gurpreet