

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision No. 4731 of 2015 (O&M)
Date of decision: 7.12.2015

Sanju @ Sanjay

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. G.S.Sandhu, Advocate
for the petitioner.

SABINA, J.

Petitioner had faced trial qua commission of offence punishable under Section 377 of the Indian Penal Code, 1860 ('IPC' for short) in FIR No. 43 dated 26.2.2012, registered at Police Station Jind Sadar. Juvenile Justice Board vide judgment/order dated 9.6.2014/10.6.2014 ordered the conviction and sentence of the petitioner under Section 377 IPC. Aggrieved against the said judgment/order of his conviction and sentence, petitioner preferred an appeal and the same was dismissed by the Appellate Court vide order dated 7.5.2015. Hence, the present petition by the petitioner.

Learned counsel for the petitioner has submitted that petitioner has been falsely involved in this case. Learned counsel has further submitted that in case the conviction of the petitioner as ordered by the Courts below is upheld, then his sentence be reduced.

Prosecution story, in brief, is that on 26.2.2012, complainant Nirmala had gone to her fields to get fodder. When the complainant returned home at about 2.00 P.M., she could not

locate her son Ankit aged about 07 years. Complainant was told by Raju that he had seen the petitioner taking her son with him towards the fields of village Padana on his bicycle. On search, complainant found her son lying near the mustard fields. Son of the complainant disclosed to her that the petitioner on the pretext of giving sweets (ladoo) to him had committed carnal intercourse with him. As per the FIR, she further deposed that she had removed the pant of her son and found that he was bleeding. Then she took her son to the hospital and her statement was recorded by the police.

After registration of FIR and completion of necessary formalities, challan was presented against the petitioner before the Juvenile Justice Board as the petitioner was a juvenile.

Complainant appeared in the witness box as PW-3 and deposed as per the contents of the FIR. Victim also appeared in the witness box as PW-2 and deposed to the effect that the petitioner had committed carnal intercourse with him.

PW-7 Dr. Dinesh deposed that on 26.2.2012 at about 6.45 P.M, he had medico-legally examined the victim aged about 07 years and had found following injuries on his person:-

- 1. At perennial region at 12 O' clock position abrasion of size 1.1 x 2 Cm and 0.8 x 0.2 Cm radish colour of radiate direction.*
- 2. At 6 O' clock position fissure of size 0.4 x 0.1 Cm x mucosal depth, reddish and tender.*

He further deposed that he had sent the swab from the margin of anal canal of the victim to the laboratory for examination.

As per the report of Forensic Science Laboratory, human semen

was found present in the swab. As per the report of Forensic Science Laboratory, possibility of carnal intercourse could not be denied.

PW-8 Dr. Vidender Dhanda medico-legally examined the petitioner and stated that in his opinion there was nothing to suggest that the petitioner was not capable of performing sexual intercourse.

Thus, in the present case, prosecution had been successful in proving its case. The statement of the victim was duly corroborated by medical evidence. Hence, conviction of the petitioner as ordered by the Courts below under Section 377 IPC is liable to be upheld.

Keeping in view the seriousness of offence committed by the petitioner, no ground for reduction of sentence is made out.

Dismissed.

**(SABINA)
JUDGE**

December 07, 2015
Gurpreet