

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No. 540 of 2015 (O&M)
Date of decision : February 18, 2015

Gurmeet Singh,

..... Petitioner

v.

State of Punjab,

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Parminder Singh-I, Advocate
for the petitioner.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
- 2. To be referred to the Reporters or not ?**
- 3. Whether the judgment should be reported in the Digest ?**

Ajay Tewari, J (Oral)

This revision petition has been filed against the concurrent conviction of the petitioner under Section 377 of the IPC.

As per allegations, the son of the complainant, aged 8½ years, was playing in the street, when the petitioner enticed him into the room and committed sodomy with him.

Counsel for the petitioner has argued that on the one hand the victim stated that penetration had taken place and in fact as a result thereof he had even bled from his anus, but the medical report did not suggest any injury and, therefore, there being a contradiction between the stand of the victim and the medical opinion, the petitioner should have been acquitted, and in any case, he could not have been convicted under Section 377 of the

IPC.

Even assuming that the medical evidence is contrary to the allegations yet from a perusal of the judgments of both the Courts below, it is revealed that it is the testimony of the child victim which has impressed them. To my mind also, there is no reason why the victim should have made the accusation against the petitioner and then deposed in the Court (and withstood the cross-examination also). Counsel for the petitioner has not been able to pinpoint why the testimony of the child victim should not have been believed. In these circumstances, the best which can be said in favour of the petitioner would be that there was an attempt but the offence did not take place. Once the conscience of this Court is satisfied that the petitioner did make an attempt to commit offence under Section 377 of the IPC, the sentence of one year which was imposed by the Courts below cannot be said to be excessive. Consequently, this petition is dismissed.

February 18, 2015
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(AJAY TEWARI)
JUDGE