

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

Crl. Rev. No. 4543 of 2015 (O&M)

Date of decision : 06.05.2016

Ravi

.....Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Ms. Divya Sharma, Advocate
for the petitioner.

Ms. Vibha Dhiman, AAG, Haryana.

ANITA CHAUDHRY, J.

CRM-38494-2015

For the reasons set out in the application, same is allowed as prayed for and delay of 21 days in filing the petition is condoned.

Crl. Rev. No. 4543 of 2015

The instant revision is directed against the order dated 01.08.2015, passed by the Additional Sessions Judge, Faridkot who dismissed the appeal and affirmed the order passed by the Juvenile Justice Board, Faridkot, who had convicted the petitioner under Section 376 IPC and Section 6 of POCSO Act. He was sent to the Special Home for a period of two years.

The complainant works in a private company at Faridabad. Her younger daughter was a student of the 2nd Class. On 01.12.2012, when she returned from work at 8:00 PM, her daughter revealed that Ravi, a student of Class 6th, took her to the jungle, threatened her and forcibly committed sexual intercourse and she had bled. The victim managed to return home. The family confronted Ravi's family, who were trying for compromise. The bleeding did not stop till 04.12.2012 and the child was taken to B.K. Hospital for treatment. The statement of the child was recorded in the presence of the legal advisor. A case was registered, investigations were started and the juvenile was nabbed the next day. He suffered a disclosure and demarcated the place of occurrence.

Challan was presented and notice of accusation was served upon the juvenile to which he pleaded not guilty.

The prosecution examined 13 witnesses including the Principal of Bal Bharti High School who brought the date of birth record, according to which the date of birth of the juvenile was 13.03.2000 and the date of birth of the prosecutrix was 13.02.2008. The prosecution had also examined the Medical Officer as well as the victim and the police officials.

The FSL report Ex.PX & PY was tendered in evidence.

The trial Court accepted the statement of the prosecutrix and did not find any embellishment and found that the statement of the prosecutrix got support from medical evidence and directed the juvenile to be sent to the Special Home for two years.

The appellate Court maintained the judgment.

The submission on behalf of the petitioner was that the prosecution had failed to examine the mother and there were no injury on the child and the case had been registered on account of enmity and the boy was attending tuitions after school and the Court had wrongly rejected the statement of Pankaj Rai - DW.

The State counsel supported the judgment and had urged that all these averments were adequately dealt with by the Courts below. It was urged that the child was too small and could not have raised any resistance and the delay had been explained and the medical evidence completely nails the juvenile. It was urged that the mother was not an eyewitness and her evidence would have been hear-say and her non-examination has caused no prejudice.

The victim was a student of Class two. She had made a categorical statement that the juvenile took off her pant and his own pant and forced himself on her. She had started to bleed. The incident was narrated to the mother when she returned from work. She had stated that her mother took her to the school and the matter was brought to the notice of the Principal and the Principal had beaten up the juvenile. Her uncle and elder brother had also come to the school. She stated that she was taken to the hospital and thereafter, her statement was recorded.

The victim was categorical and she knew the juvenile as he was a student of the same school.

The fact that the mother has not been examined is hardly of any consequence. Only the incident was narrated to her on which she had lodged the complaint. The statement of the prosecutrix

coupled with the medical evidence completely nails the petitioner.

Both the Courts below have given a categoric finding against him.

There is no infirmity in the finding and are affirmed.

The revision is dismissed.

06.05.2016

sunil

(ANITA CHAUDHRY)
JUDGE