

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

**CRA-S No.1157-SB of 2016
Date of Decision: 16.12.2017**

Sandeep Kumar @ Sonu

..... Appellant

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MRS. JUSTICE RITU BAHRI

Present: None for the applicant-appellant.

Mr. Luwinder Sofat, AAG, Punjab

RITU BAHRI, J. (Oral)

Sandeep Kumar @ Sonu (appellant) was tried by the Sessions Judge, Rupnagar, for the offences under Sections 363, 366 of the Indian Penal Code (for short 'the Code') . The appellant was convicted and sentenced under Section 363 of the Code and Section 8 of Protection of Children from Sexual Offences Act, 2012, vide judgment of conviction and the sentence order dated 15.04.2015 passed by the Sessions Judge, Rupnagar. The appellant was sentenced to undergo rigorous imprisonment substantially for a period of four years under Sections 363 of the Code and Section 8 of Protection of Children from Sexual Offences Act, 2012.

The facts of the prosecution case are that the prosecutrix-Nisha had been forcibly taken away by a Hindu boy on his motorcycle on 20.03.2014 when her father went to fetch milk from the house of Tari

resident of Gopalpur and the prosecutrix was sitting alone in the shop of her father. The accused took her towards the area of jungle and tried to do wrongful acts with her. He made her sit in the jungle for sometime and thereafter she was taken to his house. The father and the brother of the boy told him to leave her from where she was brought. Those three persons brought her back on their motorcycle and left near the village. On enquiry by the father of the prosecutrix, he came to know that one Sandeep Kumar @ Sonu had come there, who used to sell the scrap in the adjoining shop. On the basis of this statement, F.I.R was registered against the appellant. On 22.03.2014, appellant was arrested and was identified by the victim/prosecutrix.

After presentation of challan in the Court, the accused was put on trial for the offences as stated above.

During trial, the prosecution examined as many as ten witnesses.

In the statement recorded under Section 313 of the Code of Criminal Procedure, accused-appellant Rajbir Singh denied the prosecution allegations and pleaded false implication. However, no evidence was led by the accused in his defence.

I have heard the learned counsel for the parties and have gone through the records of the case.

The prosecutrix, as per admission record of the school, was born on 02.07.2005 and was thus minor on the date of commission of the crime. As noticed above, the appellant had approached the

prosecutrix when she was alone in the shop of her father. She was taken forcefully by the appellant. The presence of the prosecutrix in the custody of appellant cannot be denied, as the prosecutrix was examined at length and she confirmed the identity of the appellant. The prosecutrix in her statement as P.W.1 has given the detailed account of the prosecution case including the manner in which she was enticed away from the shop. Dr Mandeep Kaur proved the MLR of the prosecutrix wherein it has come on record that there was no visible injury mark on the abdomen by localised tenderness was present. There were two linear scratch marks on the left cheek near mandibular border scabs were present. Thus, the ocular version of the prosecutrix is supported by the medical record proved by Dr Mandeep Kaur. At the time of occurrence the prosecutrix was only 09 years old. The guilt of the accused was duly established by the prosecution.

Under the circumstances, the evidence furnished by the prosecutrix and the Investigating Officer leaves no room for doubt that the prosecutrix had been kidnapped by the accused from the lawful custody of her parents. The appellant Rajbir Singh has, thus, rightly been convicted and sentenced under Section 363 of the Code and Section 8 of Protection of Children from Sexual Offences Act, 2012

As per custody certificate dated 16.12.2017, the accused was released on 23.09.2017, after completing the sentence.

For the aforesaid reasons, the prosecution has been able to prove its case against the appellant under Section 363 of the Code and

Section 8 of Protection of Children from Sexual Offences Act, 2012 beyond all reasonable doubts. This Court do not see any ground warranting interference in the impugned judgment of conviction and the sentence order rendered by the learned trial Judge. The same are hereby confirmed. Resultantly, this appeal is dismissed.

16.12.2017
G Arora

(RITU BAHRI)
JUDGE

1. Whether speaking/reasoned: Yes
2. Whether reportable: No