

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

CRA-S-2357-SB-2013 (O&M)

Date of decision: 12.05.2017

Upinder Paswan

..... Petitioner.

Versus

State of Punjab

..... Respondents.

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. J.S. Mehndiratta, Advocate for the petitioner.
Mr. K.D. Sachdeva, Addl. A.G., Punjab.

LISA GILL, J.

The appellant is aggrieved of judgment and order dated 20.04.2013/22.04.2013 passed by the learned Additional Sessions Judge, Ludhiana. Vide judgment dated 20.04.2013, the appellant has been convicted for the offences punishable under Sections 363, 366 and 376 of the Indian Penal Code ('IPC' for short) and vide order dated 22.04.2013, he has been sentenced to undergo rigorous imprisonment for a period of seven years; besides pay a fine of ₹ 5,000/- and in default thereof undergo simple imprisonment for six months for the offence punishable under Section 376 of the IPC. He has also been convicted and sentenced for varying terms and pay fine for the offences punishable under Sections 363 and 366 of the IPC.

FIR No. 13 dated 12.02.2011, under Sections 363,366-A and 376 of the IPC (Ex. PC) at Police Station Meharban, Ludhiana was registered on the basis of a statement suffered by the father (PW-4) of the prosecutrix. It was alleged that the victim, a minor aged about thirteen years and eight months was enticed by the appellant on the pretext of marriage. The victim while deposing as PW-1 has unfolded the events with clarity. Specific allegations attracting rigours of Section 376, 363 and 366-A were raised by the victim. Medical evidence on record reflects that the victim was pregnant as well.

The appellant pleaded innocence, claiming that the victim had in fact eloped with him. She was not a minor. They solemnized marriage. The appellant was falsely implicated.

The learned trial Court after considering the facts and circumstances of the case as well as the evidence on record concluded that the victim was thirteen years and eight months old at the time of the incident. Marriage between the parties was not proved. Accordingly, the appellant was held guilty of the charges as above and sentenced. It was noticed that the victim has fully supported the prosecution case. Thus, the learned trial Court concluded that the appellant is guilty of the offences as charged and was sentenced as above.

Custody certificate dated 05.05.2017, duly verified by Sh. Surinder Pal Khanna, PPS, Superintendent, Central Jail, Ludhiana filed in Court is taken on record subject to just exceptions. As per the said certificate the appellant has undergone the sentence imposed upon him. He was released from confinement on 01.04.2017. Fine was paid by the appellant at the jail gate.

Learned counsel for the appellant submits that he has no instructions whether the appellant, having undergone the sentence imposed upon him, still wishes to pursue this appeal.

Keeping in view the fact that the appellant has undergone the sentence imposed upon him and learned counsel does not have any instructions whether the appellant is interested in pursuing the matter any further, it would be futile to indulge in an academic exercise in deciding the present appeal. The appeal is accordingly disposed of as infructuous with a liberty to the appellant to move appropriate application for revival of the proceedings within three

months from today in case he is still interested in pursuing the matter any further.

A copy of this order be sent by registered post to the appellant at the given address.

(LISA GILL)
JUDGE

12.05.2017

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Whether speaking/reasoned : *Yes/No.*

Whether reportable : *Yes/No.*