

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

CRR-1111-2016 (O&M)

Date of decision: 7.10.2017

Rohit

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr.Rakesh Nehra, Advocate for the petitioner

Ms.Mahima Yashpal, AAG, Haryana

JITENDRA CHAUHAN, J.

This revision is directed against the judgment dated 2.3.2015 and order dated 4.3.2015 passed by learned Principal Magistrate, Juvenile Justice Board, Rohtak, and the judgment dated 17.7.2015 passed by learned Additional Sessions Judge, Rohtak vide which the petitioner was convicted and sentenced for three years in Special Home under Sections 452, 376, 506 IPC and Sections 3(i) and 3 (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC/ST Act') and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (for short 'Act 2012')

The brief facts of the case, as noticed in para No.2 of the judgment passed by learned Additional Sessions Judge, Rohtak, are as under:-

“...on 19.8.2014, ASI Komal alongwith constable Ramesh, Lady Constable Bhagwani were present for government duty at Bhalaut bus stand then Laxmi, wife of Dharambir caste Dhanak resident of village Kiloj Dopana District Rohtak, moved the complaint to them wherein it is mentioned that on 17.8.2014, at about 12.00 O'clock of noon, her daughter (victim/prosecutrix) aged 14-15 years was taking rest in her house after completing the work. Meanwhile, Rohit son of Balraj entered her house and committed rape upon her daughter. On 18.8.2014, she narrated the incident to the family members of Rohit. Then his grandmother (Nani) Kitabo, mother Guddi, Aunt Mukeshi, uncle Laddo gave her warning to kill her family and asked that they can go anywhere but if they go to the police they would be killed and prayed a legal action may kindly be taken against them. On this complaint, formal FIR No.333 dated 19.8.2014 under Sections 376, 506, 452 of IPC and Section 3 Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 4 of POSCO Act in the police station Sadar, Rohtak was got registered. Statements of the witnesses were also recorded. Juvenile in conflict with law was arrested.....”

After completion of investigation, final report under Section 173 Cr.P.C. was presented in the Court. The copies of documents were supplied to the accused, free of cost as envisaged under Section 207 of Cr.P.C. Charges under Sections 452, 376, 506 IPC and Sections 3(i) and 3(x) SC /ST Act and Section 4 Act 2012 were framed against the

accused, to which he pleaded not guilty and claimed trial.

In order to prove its case the prosecution examined PW-1 ASI Anoop Singh, PW-2 ASI Inderpal, PW-3 Ms.Kirti Jain, the then Judicial Magistrate, Rohtak, PW-4 complainant Laxmi, PW-5 victim/prosecutrix, PW-6 HC Sumit Kumar, PW-7 ASI Devi Ram, PW-8 Dharambir, PW-9 Kavita, PW-10 Jaiveer clerk, PW-11 Kulbir Singh, PW-12 Sachin, PW-13 Dr.Sheetal Garg, who conducted medicolegal examination of the prosecutrix, PW-14 Inspector Gajender Singh, PW-15 HC Rajesh Kumar and PW16 Savitri Malik and thereafter closed the evidence.

The statement of the accused / juvenile in conflict with law was recorded under Section 313 Cr.P.C and all the incriminating circumstances appearing in the prosecution evidence were put to him. The accused denied the same and pleaded innocence. In defence, he examined DW1 Kitabo and DW2 Sunita.

After appraisal of the evidence, the Juvenile Justice Board vide impugned judgment and order dated 2/4.3.2015 convicted and sentenced the accused as noticed above. Feeling aggrieved against the judgment and order passed by the trial Court, the petitioner filed appeal, which was also dismissed by learned Additional Sessions Judge, Rohtak vide impugned judgment dated 17.7.2015. Hence the present revision petition.

At the outset learned counsel for the petitioner states that he does not wish to challenge the judgment of conviction on merit rather he

prays for taking a lenient view in the matter of sentence. It is further submitted that the petitioner was a juvenile at the time of occurrence. He has already undergone sentence of about 2 years and 8 months out of substantive sentence of three years; he is not involved in any other FIR; he has been facing the agony of protracted criminal proceedings since 2014.

On the other hand, the learned State counsel states that both the Courts below have rightly convicted and sentenced the petitioner. There is no scope of interference in the judgments passed by the Courts below.

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

Though, no challenge has been laid to the judgment of conviction on merits however, this Court has scanned the entire evidence on record and finds that the identity of the accused has been established beyond doubt. On delving into the prosecution evidence with sedulous care, it emanates that these findings are well in tune with the evidence on record and the same calls for no interference. Sequel to the conviction of juvenile in conflict with law Rohit is upheld.

Now reverting to the quantum of sentence, taking into consideration the fact that the petitioner has already undergone substantive part of his sentence i.e. 2 years and 8 months out of three years and he is not involved in any other offence, this Court feels that the ends of justice would be better served if the sentence of the petitioner is

reduced from three years to the period already undergone by him. It is ordered accordingly. However, the same is ordered subject to Rs.25,000/- towards compensation to be paid to the victim/ prosecutrix within three months from the date of receipt of the certified copy of this judgment.

Consequently, with the modification in the order of sentence, this appeal is partly accepted. If the compensation amount is not deposited within the stipulated period, the present revision petition shall be deemed to be dismissed without further notice. The petitioner is stated to be in custody, he be released forthwith, if not required in any other case. Registry is directed to send a copy of this judgment to the victim/ prosecutrix.

07.10.2017
gsV

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No