

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

CRA-D-348-DBA-2004 (O&M)

Date of decision:- 14.8.2018.

State of Haryana

....Appellant.

Versus

Balwan and another

....Respondents.

**CORAM: - HON'BLE MR. JUSTICE A.B.CHAUDHARI
HON'BLE MR. JUSTICE KULDIP SINGH**

Present: - Mr. Vivek Saini, DAG, Haryana.

Mr. Suresh Kumar Kaushik, Advocate for respondent No. 1.

Mr. Dishant D. Tuteja, Advocate for respondent No. 2.

....

A.B.Chaudhari, J.

Heard learned counsel for the rival parties in the appeal against acquittal which has been filed by State of Haryana against the impugned judgment and order dated 18.10.2003 acquitting the accused-respondents i.e. Balwan and Surajbhan.

With the assistance of the rival parties, we have gone through the record. At the outset, we find that prosecution itself relied upon a school living certificate (Ex. PA) at serial No. 278 dated 23.4.1990 in which the date of birth was shown as 9.3.1984 and the date of incident is said to be of 23.8.2000. Thereby, it is clear that the age of the prosecutrix was more than 16 years.

Learned trial Court has carefully marshalled the evidence of the prosecutrix and it is clear from the finding of the trial Court that the prosecutrix, a major girl, remained in the company of Balwan for number of days. Apart from that, learned trial Court rightly found that it was impossible that the other girls related to the accused persons and the prosecutrix stayed for quite some time in one room. It is impossible & improbable that the aforesaid accused persons committed rape with the prosecutrix in the presence of those girl relatives.

At any rate, we are of the view that the view taken by learned trial Court cannot be said to be perverse. The same is possible view and benefit of doubt was rightly given.

The name of the prosecutrix mentioned in the judgment throughout is ordered to be deleted.

Learned trial Judge is expected to be aware about the provision of Indian Penal Code not to mention the name of the prosecutrix.

Appeal is dismissed.

(A.B.CHAUDHARI)
JUDGE

(KULDIP SINGH)
JUDGE

14.8.2018
preeti

whether speaking/reasoned
whether reportable

yes/no
yes/no