

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

CRA-S-1779-SB-2018 (O&M)  
Date of Decision: May 29, 2018

Sikander Singh

...Appellant

Versus

State of Punjab

...Respondent

**CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present:- Dr. Payal Mehta, Advocate  
for the applicant-appellant.

Mr. Manjit Singh Naryal, DAG Punjab.

\*\*\*\*\*

**JAISHREE THAKUR, J. (Oral)**

**CRM-17345-2018**

1. This is an application that has been preferred seeking suspension of sentence of the applicant-appellant.
2. Custody certificate filed by the respondent-State is taken on record.
3. During the course of arguments, learned counsel for the applicant-appellant does not press this application, however, requests that arguments in the main appeal may be heard, to which learned counsel for the respondent-State has no objection.
4. In view of the above, the application for suspension of sentence stands disposed of, being not pressed and the main appeal is taken up for

hearing today.

**CRA-S-1779-SB-2018**

1. The instant criminal appeal has been filed against the judgment and order dated 09.06.2017 passed by the Additional Sessions Judge, Ludhiana whereby, the appellant has been convicted and sentenced to undergo rigorous imprisonment for a period of 5 years and to pay fine ₹ 20,000/- under Section 366-A of Indian Penal Code and in default of payment of fine, to undergo further rigorous imprisonment for a period of one year in case FIR No.15 dated 31.01.2014, registered under Sections 363, 366-A, 376 of Indian Penal Code and Section 4 of POCSO Act, 2012 at Police Station Jamalpur, Ludhiana.

2. In short, the facts of the case are that, on 31.01.2014, complainant-Ram Chander made a statement to the police that his youngest daughter (victim) whose date of birth is 18.12.1996, was studying in Sargodha Khalsa School, near Subhani Building, Ludhiana in class +2. Accused Sikander Singh, who was in the business of selling sand in the neighbourhood of the complainant, was on visiting terms to his house. On 29.01.2014, at about 7.10 p.m., the daughter of the complainant had gone to pay obeisance to the nearby temple, but did not return. He searched for her but could not succeed. He came to know that the accused, who was residing in the same street on rent, had eloped with his household articles since 29.01.2014. He was of the firm opinion that the accused had enticed away his daughter with the intention of marrying her.

3. On the basis of aforesaid statement, the instant case FIR was registered. During investigation, a raid was conducted, where the accused

was arrested and his personal search memo was prepared. The prosecutrix was recovered from his possession. Rough site plan was prepared. Both the accused as well as prosecutrix were got medically examined. On completion of investigation, challan against the accused was presented in court.

4. Copies of the challan and documents were supplied to the accused free of cost as envisaged under Section 207 Cr.P.C. Thereafter, the case was committed to the Court of Sessions for trial. The accused was charge-sheet under Sections 366, 366-A, 376 of the Indian Penal Code and Section 4 of the POCSO Act, to which he pleaded not guilty and claimed trial.

5. During trial, prosecution has examined Ram Chander complainant as PW1, prosecutrix as PW2, Lady HC Surinder Kaur as PW3, ASI Baljit Singh as PW4, Lady ASI Amarjit Kaur as PW5, Dr. Neelam Bhatia as PW6, HC Satpal as PW7, HC Bhupinder Singh as PW8 and Manju Bala as PW9 and thereafter, evidence of the prosecution was closed. Thereafter, statement of the accused was recorded under Section 313 C.P.C., in which all the incriminating circumstances appearing against him were put, but the accused denied the same and pleaded innocence and false implication. However, accused did not produce any witness in his defence.

6. After hearing learned counsel for both the sides, the trial court convicted the accused under Section 366-A of Indian Penal Code, as reflected above.

7. Dr. Payal Mehta, learned counsel appearing on behalf of the appellant has not assailed the judgment of conviction and order of sentence,

however, she prayed for reduction in the quantum of sentence to the period already undergone by him, while increasing the amount of compensation. She relied upon judgments rendered in **Sohan Lal vs. State of Punjab, 1979 CLJ (Criminal) 113** and **Balwinder Singh vs. State of Punjab, CRR No.2574 of 2012 decided on 31.10.2012.**

8. Mr. Manjit Singh Naryal, learned DAG appearing on behalf of the respondent-State submits that out of the total sentence of 05 years, the appellant has already undergone 04 years, 03 months and 18 days.

9. I have heard learned counsel for the parties.

10. This court in the case of **Sohan Lal's case(supra)** wherein the accused was first time offender and had undergone the sentence of 3 ½ months, reduced his sentence to the period already undergone by him. Similarly, in the case of **Balwinder Singh's case (supra)**, this court reduced the sentence of the accused therein. In the case in hand, the appellant has already undergone 04 years, 03 months and 18 days, out of the total sentence of 05 years. Keeping in view the peculiar facts and circumstances of the present case, the sentence of the appellant is reduced to the period already undergone by him. However, the appellant herein is directed to deposit a sum of ₹ 25,000/- with the trial court within a period of 03 months from today, which amount shall be disbursed to the prosecutrix/victim by the trial court as compensation. However, the fine imposed upon the appellant by the trial court shall remain intact.

11. With the aforesaid modification in the quantum of sentence and payment of ₹ 25,000/- as compensation to the prosecutrix/victim, the appeal stands dismissed. The appellant is ordered to be released forthwith, while

making it clear that in case, the appellant herein fails to deposit the aforesaid amount towards compensation to the victim within the stipulated period, he shall be required to undergo the remaining part of his sentence, as imposed by the trial court.

**May 29, 2018**  
*vijay saini*

**(JAISHREE THAKUR)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No