

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

CRA-S-387-SB-2011 (O & M)

Date of Decision:10.02.2018

Rajesh

...Appellant

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashwani Bhardwaj, Advocate
for the appellant.

Mr. Sidakmat Sandhu, AAG, Punjab.

ANIL KSHETARPAL, J.(Oral)

Appellant is in appeal against the judgment of conviction and order of sentence passed by the learned Sessions Judge, Jalandhar on 03.06.2010 under Sections 366 and 376 IPC. At the outset, it may be noticed that the appellant has completed his sentence of imprisonment on 04.02.2017 and released from jail on 21.02.2017.

In brief, the case of prosecution is that Uma Kant Mandal - father of the prosecutrix had made a statement before the police resulting into registration of an FIR. He stated that he belongs to Bihar State and he along with his family members are doing labour work in village Ucha. He has three daughters and the eldest daughter (prosecutrix) is twelve years old studying in Government School, Ucha in 5th class. He further states that his daughter had gone to school for studying on 17.10.2008 and his wife had gone to the place of her work. When they returned home in the evening, they came to know that their daughter (prosecutrix), who had gone to the school, has not come back. It was alleged that the prosecutrix has been kidnapped by Rajesh, who is living in their neighbourhood. His mother-in-

law Sita Devi and his father-in-law Chhote Lal Rajan who were also residing in the neighbourhood had conspired with Rajesh in kidnapping his daughter. Prosecutrix was recovered on 31.10.2008 and the accused (appellant) was also arrested. Prosecutrix was got examined by Dr. Aruna Miglani, who has appeared as PW-2. Her Medico Legal Report is Ex.PB. Her opinion is Mark 'B'. The medical evidence proves that the prosecutrix was subjected to sexual intercourse. Appellant was examined by Dr. Amardeep Singh, who has appeared as PW-1. Age of the prosecutrix was established from the statement of Gurmail Singh (PW-3), Teacher, Government Elementary School, Jaitewali. He has brought the school record and as per school leaving certificate, the date of birth of the prosecutrix is recorded as 19.02.1996. Prosecutrix has been examined as PW-4. Saroop Singh (PW-6) is the Investigating Officer and Jaswinder Singh (PW-7) is Sarpanch of the village.

Appellant did not lead any evidence in defence.

I have heard learned counsel for the parties at length and with their able assistance gone through the judgment passed by the learned trial Court and the record.

Although, learned counsel for the appellant submitted that the appellant and the prosecutrix had gone with their own will, however, looking at the age of the prosecutrix, which is less than the age of 13 years, the argument of learned counsel for the appellant cannot be accepted. In the present case, medical evidence clearly proves that the prosecutrix was subjected to sexual intercourse. The age of the prosecutrix has been proved by Gurmail Singh (PW-3), Teacher, Government Elementary School, Jaitewali, who had brought the school record.

In these circumstances, this Court does not find any good ground to interfere with the impugned judgment passed by the learned Sessions Judge, Jalandhar.

Hence, the present criminal appeal is dismissed.

10.02.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No