

In the High Court of Punjab and Haryana at Chandigarh

Crl. Appeal No. S-1914-SB of 2014
Date of Decision: 01.2.2018

Vandana Yadav

.....Appellant

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. R.D.Yadav, Advocate
for the appellant.

Ms. Mahima Yashpal, AAG, Haryana.

Mr. Gaurav Mohunta, Advocate
for respondent No. 2.

ANITA CHAUDHRY, J

The appellant is aggrieved by the judgment under challenge which led to the acquittal of respondent No. 2.

The victim is stated to be a 10 years old girl child studying in Kendriya Vidyalaya. Allegations were levelled against the music teacher relating to the occurrence on 10.7.2013. The victim alleged that it was her turn for getting the music copy checked but by then the music period was over. She asked the teacher if she could leave the class but was told to stay till her work had been checked. She along with her two classmates who are named stayed back in the class. After her work was checked, the victim alleged that the music teacher misbehaved with her. She used the word “Batmizzi” and explained that he pressed her chest. The child went home and did not confide her mother. Five days later, the mother was giving her a bath when she noticed a mark on her nipple and asked her about it. The

child disclosed about the incident and the matter was reported to the police and the case under Section 354-A(iv) IPC and Section 8 of the POCSO Act was registered.

After completion of investigation, challan was presented.

Charge was framed under Section 354-A(iv), 506 IPC and Section 8 of the POCSO Act.

The medical officer was the first witness to be examined. She had found, on examination, hyperaemia around the areola of left breast 3 x 7 cm. Explaining what it was, she disclosed in the cross-examination that this can occur due to rashness and can also occur if there is a lot of pressure which could be while sleeping or a mosquito bite or if a person has scratched it on account of itching. She agreed with the suggestion made by the defence that if the redness occurs due to hyperaemia and it would remain only for 2/3 days and as per the mother she had been cold sponging her daughter for the last few days.

The prosecution examined the victim who narrated the occurrence and also stated that she had asked both her classmates to stay with her and after checking of her copy, the accused misbehaved with her and she had cried out loudly and had left the class. She stated that she did not tell her mother or the school staff as she was scared. She stated that her mother did not give her bath regularly but the mother had given her a bath on 12.7.2013. She stated that the mother was not cold sponging her over the injury. She stated that the Legal Aid Counsel had recorded her statement. She stated that she did not know the meaning of "Batmizzi". She also stated that her statement was not read over to her. She stated that the alleged act was done over the shirt and the two girls standing with her did not object to

the behaviour. The victim admitted her writing on the MLR. She denied that her father was nursing a grudge against the music teacher as he was instrumental in getting her father transferred to another school.

Besides the victim, statements of her mother and father had been recorded. The two girls who were present were given up.

The trial Court on going through the evidence considered the evidence and the inconsistencies in the statements appearing before it. It also noted that there was a delay in lodging of the FIR and the two crucial witnesses had been held back by the prosecution. It also considered the statement of the doctor.

The trial Court has minutely gone through the evidence and had considered the medical evidence. It appears that the child was tutored and she had used a word in the complaint and she did not know its meaning. The mother has admitted that the child was just 10 years old and the secondary characteristics had not developed. The child was tutored, therefore she also entered in exaggerations. I find no infirmity in the judgment. There is no merit in the appeal.

The appeal is dismissed.

(ANITA CHAUDHRY)
JUDGE

February 01, 2018
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No