

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-142-MA-2018

DATE OF DECISION: April 04, 2018

State of Union Territory, Chandigarh

...Applicant

Versus

Baljinder Singh

...Respondent

CORAM:- HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Rajeev Anand, Additional Public Prosecutor for
UT, Chandigarh.

DEEPAK SIBAL,J.

Through the instant application filed under Section 378(3) of the Code of Criminal Procedure, 1973 (for short-Cr.P.C.), the applicant seeks the grant of leave against the judgment dated 6.9.2017 passed by the Additional Sessions Judge-cum-Judge, Special Court, Chandigarh, (for short-the trial Court), through which the respondent was acquitted of the charges framed against him under Section 377 read with Section 511 of the Indian Penal Code, 1860 (for short-the

Code) and Sections 4 and 18 of the Protection of Children from Sexual Offences Act, 2012 (for short-the Act).

Briefly stated, the case of the prosecution is that the victim, a 14 years' old boy, had gone to the house of his friend, who was not present at his house. The respondent, his friend's father told the victim to wait as his friend was to return soon. The respondent then asked the victim to start the computer. While the victim was in the process of doing so, the respondent rolled down his pant and tried to do an unnatural act with the victim. The victim raised noise but on being threatened by the respondent, he kept quite. On returning home, the victim disclosed this fact to his mother. She called the victim's father who took him in the Civil Dispensary, Sector 45, Chandigarh for his medical test and informed the police about the incident by dialing No.100. An FIR was registered and after investigation, which included the recording of the statement of the victim under Section 164 Cr.P.C., a report under Section 173 CrPC was filed by the investigating agency before the competent Court. The trial Court charged the respondent under Section 377 read with Section 511 IPC and Sections 4 and 18 of the Act. When the accused pleaded not guilty, he was put on trial.

The trial Court, after sifting the evidence which had come on record, acquitted the respondent, as it found

that the prosecution had failed to prove the charges against him. It is such acquittal of the respondent which is the subject matter of challenge in the present proceedings.

Learned counsel for the applicant, while reiterating the submissions made on behalf of the prosecution before the trial Court, submitted that the respondent has wrongly been acquitted as there was overwhelming evidence on record clearly proving him to have committed the offences for which he was charged.

The submissions made by learned counsel for the applicant have been considered but the same do not warrant acceptance.

The victim while appearing before the trial Court did not support the case of the prosecution. The prosecution case was also not supported by any other witness. The victim even refused to identify the respondent. When the respondent was shown to him on the LCD screen, he stated that he had never met the respondent as also that he did not do anything wrong with him.

The victim's mother while appearing before the trial Court as PW6 stated that on returning from his friend's house, the victim had not narrated to her any wrong doing with him. She further stated that on the day of the alleged occurrence the victim came home and complained of

stomach ache. He also informed her that he had a fight with his friend on which his friend and his father gave him beatings. This fact and nothing else was disclosed by her to her husband-complainant.

The statement of victim under Section 164 Cr.P.C., in the absence of any corroboration, would not by itself be enough to record the respondent's conviction. As noted earlier, none of the prosecution witnesses supported the prosecution case. Further, CFSL report, Ex.P32, did not report any semen from the exhibits and the doctors while appearing before the trial Court as PW4 and PW5 also did not find any external injury on the person of the victim.

In view of the above, no fault can be found in the impugned judgment acquitting the respondent.

Accordingly, the present application is found devoid of any merit and, therefore, dismissed.

Resultantly, leave to appeal is declined.

(T.P.S.MANN)
JUDGE

(DEEPAK SIBAL)
JUDGE

April 04, 2018
Kd

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No