

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-1541-MA-2017 (O&M)

Date of decision: 12.09.2018

Sonu Bala

.....Applicant

versus

Sukhram Pal and another

.....Respondents

**CORAM: Hon'ble Mr.Justice A.B.Chaudhari
Hon'ble Mr.Justice Kuldeep Singh**

Present: Mr.P.R.Yadav, Advocate for the applicant

- 1. Whether Reporters of Local newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J.

CRM 23601-2017

For the reasons mentioned in the application the same is allowed and delay of 259 days in filing the application for grant of special leave to appeal stands condoned.

CRM-A-1541-MA-2017

This order will dispose of an application filed by the applicant under Section 378(4) of Code of Criminal Procedure for permission to special leave to appeal against the judgment of acquittal passed by learned Additional Sessions Judge, Narnaul dated 1.9.2016, vide which, the accused was acquitted of the charges under Section 4 of Protection of Children from Sexual Offences Act, 2012 (in short, 'POCSO Act') or in the alternative under Section 376 IPC.

The case was registered on the statement of the present

applicant. She made a statement that she is a student of 10+2 class in Model Sanskrit Government School, Mohindergarh. When she was going to her school, near Baderwal City, his neighbour Sukrmpal accused, who is brother in her relation, came on a motorcycle and offered to leave her in the school. She accordingly took lift on the motorcycle. Accused took her to vegetable market. When he was questioned by the complainant, the accused replied that he has some work there and thereafter he will drop her to school. Thereafter, the complainant was served with juice with some sedative material. After consuming the same, the applicant felt giddiness and thereafter, the accused took her to school and on the way near the fields on *katcha rasta*, accused committed rape on her against her wishes. Then she was left near Saini High School Mohindergarh. Thereafter, the complainant went to her house and narrated the version to her mother.

On the statement of the complainant, FIR was registered. During investigation, statement of the prosecutrix under Section 164 Cr.P.C. Was also got recorded. Prosecutrix and the accused were got medico legally examined. Accused was charge sheeted under Section 4 of 'POCSO Act or in the alternative under Section 376 IPC.

After gong through the statements of the prosecutrix and other witnesses, medical evidence, the impugned judgment of acquittal was passed.

We have heard learned counsel for the applicant and have also carefully gone through the file.

After going through the judgment, we do not find and illegality or infirmity in the impugned judgment.

Learned Additional Sessions Judge, Narnaul has found that the

statement of the applicant is not supported by the medical evidence. When the applicant and the accused were medico legally examined, no semen could be detected on the underwear, slides, vaginal swabs or public hair. Even in the report of the laboratory, it was reported that no semen could be detected on the vaginal swab/ pubic hair, cloths of the accused, cloths of the prosecutrix. It is not the case of the prosecutrix that she had taken a bath. Medical examination was conducted promptly. Therefore, absence of semen on the cloths, slides and the vaginal swabs or pubic hair goes to show that story of rape falls flat. Further, report of the laboratory shows that no drug was found in blood sample of applicant. Case of the prosecutrix was that she was served with the sedative in the juice. The absence of drug also indicates that the prosecutrix is not giving her true version. Moreover, in the statement under Section 164 Cr.P.C., the prosecutrix had not alleged that rape was committed on her. It being so, on the basis of the medical evidence and the statement under Section 164 Cr.P.C., learned Additional Sessions Judge, Narnaul rightly came to the conclusion that the prosecution case is not proved beyond all reasonable doubts.

Accordingly, we do not find any ground to grant leave to appeal.

Resultantly, the present application stands dismissed.

(A.B.Chaudhari)
Judge

(Kuldip Singh)
Judge

12.09.2018

gk

Whether speaking/ reasoned:	Yes
Whether Reportable:	No