

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-285-MA-2016

Date of Decision:- 25.1.2018

Paramjeet Kaur

... Applicant

Versus

State of Punjab and others

... Respondent

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present:- Mr. S.P.S. Sandhu, Advocate for the applicant.

M.M.S. BEDI, J.

Vide judgment dated 1.12.2015, respondents No.2 to 8 have been convicted and sentenced to undergo imprisonment and fine on different counts i.e. Sections 376, 363 and 366-A etc of the Indian Penal Code, 1860. The present appeal has been filed against acquittal claiming that the circumstances warranted the conviction of the said respondents under Section 4 of the Protection of Children from Sexual Offences Act, 2012. In view of the provisions of Section 42 of the aforesaid Act, appeal does not seem to be maintainable as facts provided for offence under Section 4 of the said Act and Section 376 and other offences under Indian Penal Code are similar.

Counsel for the applicant, at this stage, has submitted that in view of abovesaid legal situation this appeal against acquittal may be considered as an appeal of victim under proviso of Section 372 Cr.P.C. and he presses this appeal only for the imposition of adequate compensation to the prosecutrix who happens to be daughter of the applicant.

We find that such an appeal would be maintainable under

proviso of Section 372 Cr.P.C. to be accompanied by an application under Section 378(3) Cr.P.C. as per the judgment of Hon'ble the Supreme Court in Satyapal Singh Versus State of Madhya Pradesh 2015(4) R.C.R. (Criminal) 705. We have considered the submission of the counsel for the applicant. The applicant can file an appeal under proviso of Section 372 Cr.P.C. to seek adequate compensation and that appeal would ordinarily lie where the appeal lies against an order of conviction.

It has been informed that appeals have been filed by respondents No.2 to 8 as CRA-S-23-SB-2016 and CRA-S-117-SB-2016.

We are of the opinion that where a procedure is prescribed for a particular act, it should be done as per the procedure prescribed. The appeal against acquittal is dismissed as withdrawn with liberty to the applicant to file a statutory appeal under proviso of Section 372 Cr.P.C. along with application under Section 378(3) Cr.P.C. to be heard by the Single Bench, as an appeal against order of conviction is maintainable before the Single Bench and the appeal Nos.CRA-S-23-SB-2016 and CRA-S-117-SB-2016 filed by respondents No.2 to 8 are already pending before this Court. It will be open to the applicant to seek the benefit of Section 14 of the Limitation Act. The appeal against acquittal is dismissed as withdrawn with liberty to file fresh appeal as mentioned hereinabove for compensation within a period of one month.

(M.M.S. Bedi)
Judge

25.1.2018

pankaj

Whether speaking /reasoned

Whether Reportable

Yes / No

Yes / No

(Gurvinder Singh Gill)
Judge