

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

**CRM No.A-2693-MA of 2017 (O&M)
Date of decision: April 03, 2018**

Mannu (Minor)

...Applicant

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE A.B.CHAUDHARI
HON'BLE MR. JUSTICEINDERJIT SINGH**

Present: Mr.Tapan Kumar Yadav, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Mannu has filed this application under Section 378 (3) Cr.P.C. seeking permission for leave to appeal against State of Haryana and other respondents, challenging the impugned judgment dated 06.09.2017 passed by learned Addl. Sessions Judge (Exclusive Court), Bhiwani, vide which the accused-respondents were acquitted.

It is mainly stated in the application that accompanying appeal is being filed which is likely to succeed on the grounds taken therein. It is, therefore, prayed that leave to appeal be granted.

From the record, we find that challan was presented against accused Gaurav @ Naveen, Subhash, Bala Rani and Raj Bala in case FIR No.64 dated 02.08.2016 under Sections 120-B, 354-A(1), 376(1), 506, 34 IPC and Section 6 of The Protection of Children from Sexual Offence Act, 2012. The brief facts of the case as noted down by learned trial Court, in the judgment are as under:-

3. The facts, material and evidence, unfolded during the course

of trial, culminating in the commencement, relevant for disposal of the instant case of the prosecution and emanating from the record, in brief, are that on 2.08.2016, prosecutrix “p” alongwith her mother and aunt (chachi) came to the police station and disclosed about the incident of rape upon which Ms.Mukesh Chauhan, Advocate, District Court, Bhiwani was called to the police-station. Before the lady advocate, the prosecutrix gave statement with the allegations that “she was student of 10th standard in Government Girls School, Bhiwani. Gaurav son of Suresh Kumar, caste chamar was residing in their village. About two weeks ago, Bala, who was his real grandmother threatened her that if she did wrong act with said Gaurav, then her photos would not be uploaded on the Internet. After that, on one fine day, when she was going to the school, Gaurav met her and lied to her that her mother was not well hence, she should return at once. On this pretext, he however took her to the house of his aunt (Bua) where he started pestering her and clicked her photos. He threatened her that if she disclosed about this, he would kill her. Since then, Gaurav had been black-mailing her but on the day, i.e. 2.08.2016, she had somehow gathered courage and apprised her mother of the whole episode and had now come to police-station. A prayer was thus made for taking legal action against the culprits.”

Accused were arrested. After necessary investigation, challan was presented. On presentation of challan, copies of challan and other documents were supplied to the accused under Section 207 Cr.P.C. Finding prima facie case, the accused were charge-sheeted under Sections 376(1), 506, 120-B IPC and Section 6 of the POCSO Act, to which they pleaded not guilty and claimed trial.

In support of its case, prosecution examined 17 witnesses

In the statement under Section 313 Cr.P.C., accused denied all the incriminating evidence against them and pleaded their false implication. No witness was examined in defence.

Learned trial Court, after appreciating the evidence, acquitted the accused-respondents vide impugned judgment dated 06.09.2017.

Aggrieved from the above-said judgment, present appeal along

with application for grant of leave to appeal has been filed.

We have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

The perusal of the record shows that the findings given by learned trial Court are as per evidence and law. In no way, the findings can be held as perverse or against the evidence and law. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Court below. Nothing has been pointed out as to how the findings are perverse or against the law and what illegality has been committed by learned trial Court.

The perusal of the judgment passed by the Court below shows that prosecutrix examined in this case, though supported the case in chief-examination but in cross-examination, she turned hostile and has not supported the prosecution version. In cross-examination, she stated that she approached the police only because some boys were teasing her whenever she used to go to school. Prosecutrix further stated in categorical terms that she did not know as to who were those boys but accused Gaurav, present in the Court, was not amongst them. She also stated in categorical terms that accused Gaurav did not entice her away and he did not commit rape upon her person. She further stated the accused Gaurav did not ever take her obscene photos nor he criminally intimidated her at any point of time. In cross-examination, the prosecutrix also stated in categorical terms that she had given statement before learned Magistrate under Section 164 Cr.P.C. only under the pressure of police and she had also earlier made statement by way of examination-in-chief in the Court as tutored by the police. She next stated that she had affixed her signatures on blank papers which have been

mis-utilized in preparing Ex.P1, P3 and P4. She also stated that it is correct that on that day, she was deposing true version voluntarily and without any fear and pressure. During further cross-examination, the prosecutrix stated in categorical terms that she had not known accused Gaurav, Subhash and Raj Bala prior to registration of case. She further stated that accused Bala Rani, Subhash and Raj Bala never hatched any conspiracy with Gaurav nor she was threatened to have sexual relations with Gaurav. Learned Public Prosecutor was allowed to re-examine the prosecutrix but she maintained her stand as deposed by her in cross-examination and emphasized that on that day only, she had given statement voluntarily in the Court.

Keeping in view the facts that the prosecutrix has not supported the prosecution version and has not deposed any incriminating fact in cross-examination against the accused, a reasonable doubt exists in the prosecution version. Learned trial Court, after discussing the evidence and law, has rightly acquitted the accused. In no way, the findings can be held as perverse or against the evidence.

In view of the above discussion, we find that the impugned judgment dated 06.09.2017 passed by learned Addl. Sessions Judge (Exclusive Court), Bhiwani, is correct, as per law and evidence and does not require any interference from this Court. No ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

(A.B.CHAUDHARI)
JUDGE

(INDERJIT SINGH)
JUDGE

April 03, 2018
Vgulati

Whether speaking/reasoned
Whether reportable

Yes
No