

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

Crl. Revision No.1162 of 2018(O&M)
Date of Decision: August 18, 2018

Harpreet Singh @ Ashu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. K.B. Raheja, Advocate
for the petitioner.

Ms. Rajni Gupta, Senior DAG Punjab.

JAISHREE THAKUR, J. (Oral)

1. The instant criminal revision has been filed against the judgment/order of sentence dated 29.11.2017 passed by Ld. Principal Magistrate Juvenile Justice Board, Amritsar by which the petitioner has been sentenced to undergo stay in the Special Home substantially for a period of three years under Sections 366-A, 376, 506 of Indian Penal Code and Section 6 of POCSO Act and against the judgment dated 09.02.2018 passed by Additional Sessions Judge, Amritsar vide which he confirmed the judgment of conviction/order of sentence dated 29.11.2017 passed by Ld. Principal Magistrate Juvenile Justice Board, Amritsar.

2. In brief, the facts of the case are that an FIR No.216 dated 13.09.2015, under Sections 376, 363, 366-A, 506 of Indian Penal Code and

Sections 4, 6 of POCSO Act, has been registered at Police Station Jandiala, Amritsar, on the statement of complainant-Pinky in which she has stated she was employed as a teacher at Jain School and out of her three daughters, the prosecutrix is the eldest one. On 13.09.2015, the prosecutrix told the complainant that in the intervening night of 11/12.09.2015, petitioner-jvenile took her away by way of inducement. He committed forcible sexual intercourse with her after putting her in fear. He also threatened her that if she disclosed to her family about the incident, he would eliminate her family. On the basis of this information, the present case was registered. During the course of investigation, statement of the prosecutrix was recorded and her birth certificate was taken into possession. The prosecutrix was got medico legally examined and swabs of the prosecutrix were sent for chemical examination. Statement of the prosecutrix was recorded under Section 164 Cr.P.C. Thereafter, the juvenile was apprehended and his medical examination was conducted.

3. After completion of necessary investigation, final report was submitted in the court. After hearing both the sides, notice of accusation under Sections 363, 366-A, 376, 506 of Indian Penal Code and Sections 4, 6 of POCSO Act was served upon the petitioner-jvenile, to which he pleaded not guilty and claimed trial.

4. In support of its case, the prosecution has prosecutrix as PW1, Pinky as PW2, Bharat Bhushan as PW3, SI Balwinder Kaur as PW4, ASI Dhanwinder Singh as PW5, Const. Harpartap Singh as PW6, LC Sohalpreet Kaur as PW7, Gurpreet Kaur as PW8, Mata Parshad as PW9, HC Tarsem Singh as PW10, HC Parminder Singh as PW11, Dr. Aina Devgan as PW12,

Dr. Naveen Khungar as PW13 and thereafter, evidence of the prosecution was closed.

5. Statement of juvenile under Section 313 Cr.P.C. was duly recorded, in which he denied all the incriminating circumstances appearing against him and pleaded innocence, however, he did not lead any evidence in defence.

6. After hearing counsel for both the sides, the petitioner was held guilty and convicted and sentenced in the manner indicated above by judgment of conviction/order 29.11.2017 passed by the Principal Magistrate Juvenile Justice Board, Amritsar. The petitioner challenged the said judgment of conviction/order of sentence in appeal, which has been dismissed by the Additional Sessions Judge, Amritsar.

7. Learned counsel appearing on behalf of the petitioner/juvenile has not assailed the judgment of conviction and order of sentence, however, he prayed for reduction in the quantum of sentence to the period already undergone by him. He has relied upon judgments rendered in **Sohan Lal vs. State of Punjab, 1979 CLJ (Criminal) 113** and **Balwinder Singh vs. State of Punjab, CRR No.2574 of 2012 decided on 31.10.2012.**

8. Learned counsel appearing on behalf of the respondent-State submits that out of the total sentence of 03 years, the petitioner has already undergone a sentence of 02 years, 08 months and 20 days.

9. I have heard learned counsel for the parties.

10. This court in **Sohan Lal's case(supra)** wherein the accused was a first time offender and had undergone the sentence of 3 ½ months, reduced his sentence to the period already undergone by him. Similarly, in

the case of **Balwinder Singh's case (supra)**, this court reduced the sentence of the accused therein. In the case in hand, the petitioner has already undergone 02 years, 08 months and 20 days, out of the total sentence of 03 years. Keeping in view the peculiar facts and circumstances of the present case, the sentence of the petitioner/juvenile is reduced to the period already undergone by him. The petitioner/juvenile is ordered to be released forthwith.

11. With the aforesaid modification in the quantum of sentence, the criminal revision stands dismissed.

August 18, 2018

vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No