

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

CRR-4375-2017(O&M)

Date of decision:-13.3.2018

Rinku @ Rintu

...Petitioner

Versus

The Union Territory of Chandigarh

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Argued by: Mr.Ankit Chowdhri, Advocate
for the petitioner.

Mr.Praveen Chadha, Advocate for
Mr.G.D.S. Wasu, Addl. Public Prosecutor, U.T.

H.S. MADAAN, J.

Petitioner – Rinku @ Rintu, an accused in FIR No.345 dated 10.9.2012 for the offence under Section 377 IPC, registered with Police Station Mani Majra, Chandigarh faced trial by the Court of learned Judicial Magistrate Ist Class, Chandigarh, who vide judgment dated 19.4.2016 convicted him for the offence under Section 377 IPC and in terms of the order passed on that very date, sentenced him to undergo rigorous imprisonment for a period of three years and to pay a fine of

Rs.10,000/- and in default thereof, to further undergo rigorous imprisonment for a period of nine months. Rs.9,000/- out of the fine amount of Rs.10,000/- was ordered to be paid to the victim as compensation.

Briefly stated facts of the case are that criminal machinery in this case was set into motion by complainant Mehboob Khan, who in a written complaint submitted to the police on 10.9.2012 stated that his youngest child, a son aged about 12 years and a student of 5th class in High School, Vikas Nagar, Mouli Jagran (hereinafter referred to as '*the victim*') had gone to the school; at about 1:30 p.m. when the victim returned home, then he was having an injury on his head; that when the complainant asked the victim as to how he had received the injury, he replied with tears in his eyes that when he was going to school, one boy came to him and told that he would take him for some outing till school starts, as such, he took him to the nearby jungle and pushed him into a big pipe and thereafter removing clothes of the victim inserted his penis in his anus; that when he tried to run away, he suffered an injury on head. On matter being reported, the victim was medically examined. Formal FIR was registered. The matter was investigated. Accused was arrested in this case. Statements of witnesses were recorded and several documents were taken into possession.

After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court.

On presentation of challan in the Court of Judicial Magistrate Ist Class, Chandigarh, copies of documents relied upon in the challan

were supplied to the accused free of costs as provided under Section 207 Cr.P.C.

Learned Judicial Magistrate Ist Class, Chandigarh finding that charge for offence under Section 377 IPC was disclosed against the accused, charge-sheeted him accordingly, to which, he pleaded not guilty and claimed trial. The case was then fixed for evidence of prosecution.

To bring home guilt to the accused, the prosecution examined as many as six witnesses as per details below:

PW1 Mehboob Khan complainant deposed on lines of the case of prosecution.

PW2 the victim narrated the tale of woes deposing in consonance with the prosecution story.

PW3 SI Saroop Singh, who had carried out the investigation in this case deposed in that regard proving various documents.

PW4 Dr.Kulvir Singh provided the medical evidence.

PW5 MMHC Sakattar Singh and PW6 Constable Jagjeet Singh, who were associated with the investigation deposed regarding their part.

Several documents, which were proved on record happened to be medical report of the victim Ex.PW1/A, complaint submitted by complainant Ex.PW1/B, Ex.PW1/C, recovery memos Ex.PW1/E and Ex.PW1/F, arrest memo of accused Ex.PW1/G, arrest memo dated 18.9.2012 Ex.PW3/A, extract of entry No.1139/12 Ex.PW4/A and FIR Ex.PW5/A.

With that the prosecution evidence stood closed.

Statement of accused was recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against him were put to him but he denied the allegations contending that he is innocent and had been falsely involved in this case.

Accused did not lead any evidence in defence.

After hearing arguments, learned Judicial Magistrate Ist Class, Chandigarh convicted and sentenced accused as mentioned supra.

Feeling aggrieved, the accused had filed an appeal in the Court of Sessions, which was disposed of by learned Sessions Judge vide judgment dated 22.9.2017 whereby judgment passed by Judicial Magistrate Ist Class, Chandigarh was upheld, whereas the sentenced was reduced to two years.

The accused – convict was still dissatisfied with such judgment also and has preferred a revision petition before this Court praying that the same be accepted and he be acquitted of the charge framed against him.

I have heard learned counsel for the parties besides going through the record and I find that there is no merit in the revision petition.

The victim has supported the prosecution story on material aspects identifying the accused to be tormentor.

The medical evidence corroborates the ocular evidence. The investigation in this case has been conducted in a fair and impartial manner. The Investigating Officer had no reason to involve the accused in this case wrongly, challan him falsely or to depose against him to secure his conviction. The remaining evidence also supported the prosecution

story.

The Courts below were fully justified in convicting the petitioner/accused for the offence punishable under Section 377 IPC. As regards the sentence part, learned Sessions Judge, Chandigarh has been somewhat lenient with the accused in reducing the sentence of three years imprisonment for two years. A person with perverse sexual tendency is required to be dealt with sternly lest they should harm innocent young children. The offence committed by the accused/convict does not entitle him to any further reduction in sentence. Therefore, the request in that regard is declined.

Learned counsel for the petitioner has raised contentions, which have already been dealt by the Courts below in a very appropriate manner and I do not feel necessity of dealing with those once again.

As regards the authorities referred to by learned counsel for the revision petitioner, those do not find application to the present case due to different facts and circumstances.

I do not find any illegality and irregularity in the judgments passed by the Courts below, rather the same are based upon proper appraisal and appreciation of evidence and correct interpretation of law and can certainly be not termed as perverse or having been passed against settled principles of criminal law. There is no error apparent on the face of the impugned judgments. The law is well settled that the revisional jurisdiction of this Court is quite limited. This Court is to interfere only if there is an illegality or infirmity apparent on the face of the judgment/order passed by a Court below or the same is perverse, merely

because another view in the matter is possible, no inference with such judgment is to be done.

Finding no merits in the petition, the same stands dismissed.

13.3.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No