

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-1755-MA of 2018 (O&M)
Date of Decision: 12.7.2019

State of Haryana

.....Applicant

Vs.

Gaurav and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present: - Ms. Tanisha Peshawaria, DAG, Haryana.

Mr. Sourabh Goyal, Advocate
for respondent No. 1.

Mr. P.B.S.Goraya, Advocate
for the respondent-2.

AJAY TEWARI, J. (ORAL)

CRM-29333-2018

This is an application under Section 5 of Limitation Act, 1963 seeking condonation of delay of 77 days in filing the application under Section 378 (3) Cr.P.C. seeking leave to appeal.

No reply has been filed to the application.

For the reasons recorded in the application, the same is allowed. Delay of 77 days in filing the application under Section 378 (3) Cr.P.C., is condoned.

CRM-A-1755-MA of 2018

1. This application is filed by the State under Section 378(3)

Cr.P.C. for grant of leave to appeal against the judgment dated 20.2.2018

passed by the learned Additional Sessions Judge, Kurukshetra vide which the respondents were acquitted of the charges under Sections 452, 506, 376 of the Indian Penal Code, 1860 ('IPC' for short) and Section 3(a) of Protection of Children from Sexual Offences, Act 2012 (for short '*POCSO*') in FIR No. 117 dated 13.3.2017, registered at Police Station Shahabad.

2. As per the allegations, a written complaint was made on 13.3.2017 by victim (C) that on that day when her parents and younger brother had gone to Shahabad for taking medicines and she was alone at home with her younger sister (S), one Pardeep and Gaurav forcibly entered their house and after threatening her and her sister, they took them to separate rooms. Pardeep committed rape with her and Gaurav committed penetrative sexual assault with her sister 'S' and thereafter both the accused went away.

3. Charge was framed against the accused-respondents under Sections 452, 506 IPC. Charge was also framed against accused Pardeep under Section 376 IPC and under Section 3(a) of POCSO Act against accused Gaurav to which they pleaded not guilty and claimed trial.

4. Vide the impugned judgment dated 20.2.2018, both the accused were acquitted by the trial Court.

5. Aggrieved against the said judgment, the present application seeking leave to appeal has been filed by the State.

6. Before the trial Court, the younger sister (S) resiled from her statement made to the police where she named accused Gaurav. Rather, she stated that she was in love with Gaurav and had married him. As regards victim (C), the Court found that she had previously friendly relation with accused Pardeep. The Court also found that the name of Pardeep was

actually Ravinder. It was she who had given his false name to the police just in order to save him. The Court has found several photographs of her with the said person which were taken before the incident in the house of the complainant. The Court found several letters written by her to the said person in the name of Ravinder. Ultimately, the Court came to the conclusion that it was the uncle of the alleged victims who chanced upon them and that is why the complaint was filed. In view of these circumstances, the Court disbelieved the testimony of victim (C) and ultimately acquitted both the accused persons.

7. Learned State counsel has failed to point out any material illegality or perversity in the impugned judgment of acquittal. Nothing has been shown as to the misreading and misinterpretation of the evidence by the learned trial Court, while passing the impugned judgment.

8. Consequently, the application seeking leave to appeal is dismissed. Leave to appeal is declined.

(AJAY TEWARI)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

July 12, 2019
Gurpreet

Whether speaking /reasoned : Yes
Whether Reportable : No