

... Applicant

State of Haryana and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE AJAY TEWARI

HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Ms. Mannat Anand, Advocate for the applicant.

Ms. Palika Monga, DAG, Haryana.

Mr. Tara Chand, Advocate for respondents No. 2 and 5.

Mr. Rohit Kaushik, Advocate for respondents No.3 and 4.

AJAY TEWARI, J.

The applicant, namely, Neelam Devi has filed the present application under Section 378(4) Cr.P.C. for grant of leave to appeal against the judgment dated 12.01.2016 passed by the learned Additional Sessions Judge, Ambala.

Vide impugned judgment, the trial Court has acquitted respondents no. 2 to 5 of the charges under Sections 376, 511, 323, 506, 34 IPC and Sections 8, 12 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Shahzadpur, District Ambala.

As per the allegations on 25.12.2014 at about 6:00 a.m. when prosecutrix and her grand-mother stepped out to throw the garbage, her grand-mother stood at the gate and the prosecutrix went to the village garbage ground (Kurdi). Suddenly, the grand-mother hear the screams of the prosecutrix and saw that the accused persons along with one more person, whose face was muffled, were dragging the prosecutrix towards the fields

for committing rape with her there. When the prosecutrix raised hue and cry the accused, namely Maninder s/o Swaran Singh and Rohit gagged the mouth of the prosecutrix; Maninder son of Balbir Singh and the other boy in muffled face slapped her who as a result thereof suffered scratches on her face. On hearing the hue and cry, the brother of the prosecutrix came out and rushed to save her and when he reached the accused persons threatened them that they will complete this unfinished work at a later stage and fled.

On the other hand, the stand of the accused-persons was that on 25.12.2014, the prosecutrix was discovered at about 5:00 a.m. talking to two boys near the fields of respondent No.2. After having identified her, respondent No.2 immediately called up her uncle (PW-10) and his father (PW-6). PW-6 asked him that he would come and to stay there till he came. It was thus their case that this false case was foisted upon them only to save the reputation of the prosecutrix. The most material thing which the Court found in the prosecution version was the fact that PW-10 admitted that he had received a phone call from the respondent No.2 at 5:00 am. and that the respondent No.2 had told him that he saw the prosecutrix talking to two boys in his fields near tubewell at 5:00 a.m.

The Court went on to hold that this act of respondent No.2 in informing the incident to uncle of the prosecutrix clearly shows their innocence because had it been the intention of the respondents to molest/rape the prosecutrix there was no reason for them to have called up her uncle and the father of the respondent No.2. We are not convinced that the findings are liable to be interfered with.

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

Since, the main case is decided, pending CRM if any stands disposed of.

(AJAY TEWARI)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

10.07.2019
pooja saini

<i>Whether speaking/reasoned?</i>	<i>Yes/No</i>
<i>Whether reportable?</i>	<i>Yes/No</i>