

CRR-1892-2017 (O&M)
Date of Decision : 07.11.2019

Sandeep Singh

.....Petitioner

versus

State of Punjab

....Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. S.K.S. Bedi, Advocate
for the petitioner.

Mr. Pawan Sharda, Senior DAG, Punjab
for the respondent-State.

FATEH DEEP SINGH, J.

Heard learned counsel for the petitioner.

A case by way of FIR No.40 dated 31.01.2017 under Sections 354 and 341 of the Indian Penal Code and Section 8 of the POCSO Act was got registered by complainant, a 16 years old girl student of a school. In her complaint, the complainant alleges that she was taking coaching and while going and coming from her home to the coaching centre, from the last 5/6 days, she was being stalked by a boy who was trying to disturb her. The complainant confided this fact in her mother and who, when confronted the boy, namely, Sandeep Singh, the latter assaulted her as well, leading to the registration of the present case.

Upon presentation of the challan vide order dated 02.05.2017, the Court of the learned Judge, Special Court, SAS Nagar, Mohali framed charges against the accused for the commission of offences under Sections 354 and 341 of the Indian Penal Code and Section 8 of the POCSO Act while dismissing his application for his discharge vide order dated 02.05.2017. The accused/petitioner has challenged the same in this revision petition.

The allegations on the face of it shows that the girl, who happens to be the unfortunate victim, claims that the accused while stalking, had mishandled her physically. Mr. S.K.S. Bedi, learned counsel for the petitioner has sought to dispute that merely because the girl, a minor, has been manhandled, does not lead to the conclusion that it was sexual intent and, therefore, no offence, whatsoever, under Sections 7/8 of the POCSO Act, 2012 is made out. The same is confronted on behalf of the respondent/State, by Mr. Pawan Sharda, Senior DAG, Punjab arguing that the testimonies of the witnesses are reflective of the same and, therefore, charges have been rightly framed against the accused under the relevant provisions of law.

It is by no means displaced that the victim happens to be minor school going girl. The allegation hover around repeated stalking by the accused and subsequently, physical assault of the victim, a female child is in itself reflective of the element of sexuality

involved in the crime. Section 7 of the POCSO Act, 2012 clearly illustrates where the person physically contacts a minor female child, is covered within the definition of sexual assault, punishable under Section 8 of the POCSO Act. More so, it is subject matter of evidence when elaboration of these allegations would come about. It is well settled law that at the time of framing of the charges, the Courts are not supposed to adjudge, if the evidence was sufficient enough for conviction and mere element of *prima facie* case is sufficient to frame the charges.

Learned counsel for the petitioner could not make out any other strong argument in the favour of the petitioner necessitating intervention of this Court. The impugned order is a well reasoned detailed order and finding no illegality or perversity, the revision stands dismissed.

07.11.2019

Neha

**(FATEH DEEP SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No