

112.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-3059-2019 (O&M)

Date of decision: 10.12.2019

GULSHAN KUMAR @ TOTTU AND ANOTHER ... Petitioners

versus

REKHA Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Rahul Bhargava, Advocate, for the petitioners.

HARI PAL VERMA, J. (Oral)

Petitioners-accused have filed this revision petition impugning the order dated 30.09.2019 passed by learned Judicial Magistrate Ist Class, Amritsar whereby the application filed by the respondent-complainant under Section 311 Cr.P.C. was allowed and the Principal or the Clerk of Shine Star Senior Secondary School, Gali No.2, Dharampura, Jaura Phatak, Amritsar were permitted to lead evidence in order to prove the age of the victim Tulsi.

Counsel for the petitioners has argued that the order dated 30.09.2019 passed by the learned Magistrate is not as per the parameters laid down in *Rajaram Prasad Yadav Versus State of Bihar and another- 2013(3) R.C.R. (Criminal) 726*. He further states that the present is a third application filed by the complainant for the similar relief and in this manner the complainant is intending to fill-up the lacuna one after the other, though she has not succeeded in the previous applications.

I have heard counsel for the petitioners.

In the case in hand, the respondent-complainant has filed a complaint against the petitioners under Sections 353, 354, 506, 34 of IPC with the allegation that the petitioners had bad intention towards the

daughter of the complainant, namely, Tulsi, who is about 13 to 14 years of age. Earlier to the date of incident also, the petitioners stopped her daughter on the way many times and did objectionable acts with her, but her daughter did not disclose this fact to anyone because of fear. On 09.05.2016 at about 3.30 PM when the daughter of the complainant was passing from the *gali*, the accused persons stopped her and did objectionable acts with her.

In order to prove the age of the victim, the complainant has filed an application under Section 311 of Cr.P.C. so as to summon the official from Shine Star Senior Secondary School, Gali No.2, Dharampura, Jaura Phatak, Amritsar, as the victim-Tulsi had studied there from Nursery to 7th class. Since the said school has the correct date of birth of the victim, therefore, it has become necessary for the complainant to examine the official of that school.

Considering the averment made in the application filed under Section 311 Cr.P.C. seeking summoning of the official from the Shine Star Senior Secondary School, Gali No.2, Dharampura, Jaura Phatak, Amritsar, the learned Magistrate has rightly allowed the application filed by the complainant so that the complainant can prove the date of birth of the victim. Moreover for the repeated exercise, the trial Court has already protected the interest of the petitioners by awarding costs of Rs.4,000/- to them.

No case for interference is thus made out.

Dismissed.

(HARI PAL VERMA)
JUDGE

10.12.2019

sanjeev

Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No