

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

CRR-693-2020

Decided on : 06.03.2020

Ramjan @ Shokat

. . . Petitioner(s)

Versus

State of Haryana

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Bikram Chaudhary, Advocate
for the petitioner(s).

MANJARI NEHRU KAUL, J. (Oral)

Instant revision petition has been preferred against the order dated 14.01.2020, passed by the trial Court, vide which the petitioner was charged for offences under Sections 315, 302, 317, 201, 506 & 376 IPC and Section 6 of the POCSO Act, in case FIR No. 320, dated 10.11.2019, registered at Police Station Kheripul, Faridabad.

It would be relevant to give the sequence of events leading to the registration of the FIR in question. On 10.11.2019, a new born male child (hereinafter referred to as 'child') was found dumped inside the garbage in a vacant plot by one Rajbir Singh. On finding the child alive, said Rajbir Singh picked up the child and got him admitted in the hospital. On receipt of information *qua* admission of a child in the hospital, the investigation was set in motion by the police. The child, however, died on 11.11.2019. During the course of investigation, the police recorded the statement of the prosecutrix and subsequently her statement under Section 164 Cr.P.C. was also recorded on 18.11.2019, wherein, she stated that the petitioner, while residing in her house, forced the prosecutrix to develop

physical relations with him, as a result of which, she became pregnant. She further stated that she had not disclosed the factum of her being continuously raped by the petitioner nor the factum of her pregnancy to her parents, as they were labourers and most of the time remained out of their house. On 10.11.2019, when her parents had gone out for their work, she delivered a male child in her house, in the presence of the petitioner, who then took away the child and threw him in the garbage. The petitioner on return, cleaned and washed the room with water, where the child had been delivered. As per the statement of the mother of the prosecutrix recorded by the police, it was only on 10.11.2019 after the prosecutrix had delivered the child, she came to know of her daughter i.e. the prosecutrix having been continuously raped by the petitioner. The prosecutrix was got medically examined and the Doctor vide Medico Legal Report, observed as under:-

“Alleged h/o sexual assault by person known to her, named Vijay @ Ramzan since one year H/O home delivery of a baby boy yesterday at 2.00 P.M. Patient brought by police for medico legal examination on dated 11.11.2019 vide FIR No. 320, dated 10.11.2019 under Sections 317/302 IPC. She is accompanied by her mother. Secondary sexual characters well developed. Per abdomen uterus 20 to 22 weeks size well contract, L/E Labia Majora, well developed, hymen absent, slight bleeding P/V present lochia. Multiple laceration present in vagina with no active bleed. Small tear in vagina with no active bleed. No mark of external injury seen and the victim was admitted in BKH by the doctor.”

Thereafter, the police arrested the petitioner and got him medico legally examined. The postmortem of the male child was also conducted. As per the postmortem report, the cause of death was severe hypothermia with septicemia which was antemortem in nature and sufficient to cause death in the ordinary course of nature. DNA samples of the prosecutrix, deceased child and the accused were sent to the Forensic Science Laboratory for being tested.

Learned counsel for the petitioner has urged that since the age of the prosecutrix, as per the ossification test, had been opined to be between 14-16 years, it could not be digested that a girl as young as her would have delivered a child and that too without any medical assistance. This circumstance thus lends credence to the petitioner's false implication in the instant case. It has further been submitted that there was no scientific evidence available to link the petitioner with the child delivered by the prosecutrix. Hence, the Court below has gravely erred in charging the petitioner for offences under Sections 315, 302, 317, 201, 506 and 376 IPC and Section 6 of the POCSO Act, only on the statement of the prosecutrix, in the absence of any cogent, much less, convincing evidence.

I have heard learned counsel for the petitioner and gone through the impugned order as well as the material available on record.

This Court can exercise its powers under its revisional jurisdiction only if it notices and is convinced that the Court below has acted beyond its jurisdiction or has not exercised its jurisdiction legally and diligently. In the case in hand, on the basis of the medico legal examination of the prosecutrix as well as her statement recorded under Sections 164 Cr.P.C., *prima facie*, the petitioner appears to have committed the offences

for which he has been charged with. The authenticity of the material and evidence produced by the prosecution leading to the framing of the charges against the petitioner cannot be gone into by this Court at this stage and can only be appreciated and put to test during trial. Learned counsel for the petitioner has failed to show any such infirmities in the impugned order passed by the Court below.

In view of above, this Court does not find any reason to interfere in the well reasoned order passed by the Court below. Accordingly, the present revision petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

March 06, 2020

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No