

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Revision No. 1001 of 2020 (O&M)

Date of Decision: 20.07.2020

Ravi

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal

Present: Mr. Parminder Singh, Advocate
for the petitioner(s).

Mr. Chetan Sharma, Assistant Advocate
General, Haryana for the respondent.

Anil Kshetarpal, J.

Hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

CRM-16555-2020

Prayer in this application is for condonation of delay of 262 days in filing the revision petition.

For reasons stated in the application, the delay of 262 days in filing the revision petition is condoned.

CRR-1001-2020

The present criminal revision petition has been filed assailing the correctness of judgment passed by the Juvenile Justice Board convicting the petitioner under Section 376(2)(f) IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as “the POCSO Act”) and sentenced him to undergo imprisonment for a period of

three years. An appeal filed by the appellant was dismissed by the learned Additional Sessions Judge, Karnal on 17.08.2017. The petitioner was granted an opportunity to reform by releasing him on probation for good conduct. It was further directed that the juvenile shall perform the community service for a period of three years from 9.00 a.m. to 5.00 p.m. in the Kalpana Chawla Medical College and Hospital, Karnal under the direct supervision of the Director/Chief Medical Officer of the hospital. The petitioner did not perform the community service as directed. He absented and in spite of various warnings, he did not improve. Forced by these circumstances, the learned Additional Sessions Judge, Karnal, vide order dated 03.04.2019 directed that the petitioner be sent to the Place of Safety, Madhuban for undergoing the remaining period of sentence.

This Court has heard learned counsel for the parties and with their able assistance, gone through the judgment passed by the Juvenile Justice Board which has been affirmed in appeal by the learned Additional Sessions Judge.

As per the case of the prosecution, the petitioner committed rape of a six years old child on 14.07.2013 by taking her away on the pretext of giving sweets. The prosecution has proved its case by examining the first informant-mother of the victim, the victim herself as well as Dr. Mala, who medicolegally examined the victim. Finding their evidence to be consistent, the Juvenile Justice Board passed the order. In appeal, the learned Additional Sessions Judge, on re-appreciation of evidence, upheld the order passed by the Juvenile Justice Board. However, the Appellate Court took a lenient view on the sentence and ordered that the petitioner to

be released on probation for good conduct. He was also directed to perform the community service for a period of three years, as noticed above. It was reported to the learned Additional Sessions Judge that the petitioner remained absent for a large number of days. The learned Additional Sessions Judge initially warned the petitioner by directing him to attend his duties regularly. However, the petitioner failed to comply with the orders of the Court, therefore, the judgment dated 17.08.2017 was modified.

On careful examination of the orders passed, this Court does not find any good ground to interfere. As noticed above, the prosecution has proved its case beyond reasonable doubt in view of the consistent statements of the first informant-mother of the victim, the victim herself as well as Dr. Mala who medicolegally examined the victim. Although the learned counsel for the petitioner made efforts, however, failed to draw attention of this Court to any misreading or non-reading of the evidence. He further failed to draw attention of this Court to any error of law or procedure in the conduct of the trial.

Keeping in view the aforesaid facts, there is no ground for interfere in the orders passed. Hence, the present revision petition is dismissed. However, there is one aspect of the matter which needs attention. The Juvenile Justice Board has convicted the petitioner under Section 376(2)(f) IPC as well as Section 6 of the POCSO Act and sentenced him accordingly. Section 42 of the POCSO Act does not permit the award of sentence under both the provisions simultaneously because there is overlapping of the offences. Accordingly, the order of sentence is modified to the extent that the sentence awarded under Section 376(2)(f) IPC shall

stand set aside whereas the sentence ordered under Section 6 of the POCSO Act is confirmed.

The miscellaneous application(s) pending, if any, shall also stand disposed of in terms of the main order.

(Anil Kshetarpal)
Judge

July 20, 2020
“DK”

Whether speaking/reasoned :Yes/No
Whether reportable : Yes/No