

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

**CRR-3790-2018
Date of decision :08.09.2021**

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... Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Anil Chawla, Advocate for the petitioner.

Ms. Bhawna Gupta, Deputy Advocate General, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

The present Criminal Revision has been filed against the judgment of conviction and order of sentence dated 24.04.2017 passed by the Principal Magistrate, Juvenile Justice Board, Amritsar whereby the petitioner was convicted and sentenced to undergo three years imprisonment under Section 377 IPC of the Indian Penal Code, 1860 and three years imprisonment under Section 6 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter to be referred as "POCSO"). Both the sentences were ordered to run concurrently and against the said judgment of conviction and order of sentence dated 24.04.2017, the criminal appeal preferred by the petitioner was also dismissed by the Additional Sessions Judge, Amritsar vide judgment dated 26.09.2018.

The brief facts of the prosecution case is that complainant-Raj Kumar met Inquiry Officer S.I. Jaspal Singh and got recorded his statement to

the effect that his elder son who was about 08 years of age at the time of the occurrence was a student of Class-III at Kot Baba Deep Singh Sultanwind Road, Government Elementary School and on 17.11.2014, at about 04.30 PM, his son went out of the house to play and when he did not come back after considerable time, the complainant went out to look for him and near Ashoka DJ Godown, he heard the cries of his child. On hearing the same, he went to the first floor of the godown and found that the trouser of his son was removed and blood was coming out from the anus of his son. The petitioner, on seeing the complainant ran away from the spot. On the basis of the said fact, the FIR was registered.

The statement of the victim was got recorded under Section 164 Cr.P.C.

Finding a prima facie case against the petitioner, notice of accusation was served upon him under Section 377 of IPC and Section 6 of POCSO Act. The petitioner claimed not guilty and claimed inquiry.

The prosecution has examined one after the other, the following witnesses:-

1. PW-1 Raj Kumar,
2. PW-2 Pawan Kumar
3. PW-3 Arshdeep Singh
4. PW-4 C. Ajaypal Singh
5. PW-5 HC Tejinder Singh
6. PW-6 Dr. Maninder Singh
7. PW-7 SI Jaspal Singh
8. PW-8 Gurmeet Kaur
9. PW-9 MHC Harwinder Singh.

After closure of the prosecution evidence, statement of the petitioner under Section 313 Cr.P.C. was recorded wherein, all the incriminating material was put to the petitioner. PW-1 Raj Kumar had given the details of the incident. The victim was also examined as PW-2 and since he was less than 18 years of age, it was ascertained as to whether he will be able to understand the nature of question put to him. After ascertaining the same, his evidence was recorded and he had stated that the petitioner had taken him to the roof of the godown and had committed the wrongful act and had further stated that his father came on the spot and he identified the petitioner.

PW-3 Dr. Arshdeep Singh, Medical Officer was also examined and he had stated that he had examined the victim on 19.11.2014 and had proved the chemical examiner's report. On the basis of the medical examination and the chemical examiner's report, he had stated that there was a solid possibility of sexual abuse of the child. PW-4, PW-5 and PW-7 were the police officials, who have proved the investigation duly conducted in the present case. PW-8 Gurmeet Kaur is the Head Teacher who has proved the date of birth of the petitioner, as per the School Leaving Certificate which was stated to be of dated 02.01.1998.

The Principal Magistrate Juvenile Justice Board, Amritsar, after examining the entire evidence and the documents on record, had convicted the petitioner under Section 377 of IPC and Section 6 of POCSO Act and had sentenced him to undergo imprisonment for three years in Special Home under above said Sections and both the sentences were ordered to run concurrently. The appeal filed by the petitioner against the said judgment and order of quantum of sentence was dismissed by the Additional Sessions

Judge, Amritsar had perused the entire evidence and the documents on record and had come to the said conclusion. Against the above-said judgments, the present revision petition has been filed.

On 20.11.2018, when this case came up for hearing before a Coordinate Bench of this Court, the following order was passed:-

“Notice of motion to consider the quantum of sentence only for 11.01.2019.”

Further vide order dated 29.06.2021, it has been noticed that the petitioner had completed the sentence and thus, had been released by the concerned jail authority.

Learned counsel for the petitioner has submitted that the present revision petition be allowed but however, has not been able to point out any specific factual error or misreading of evidence by both the Courts below.

Learned counsel for the petitioner has very fairly stated that the notice of motion was issued only to consider the quantum of sentence.

This Court has heard the parties and perused the judgments and also the record and finds that the present revision petition deserves to be dismissed.

In the present case, the father of the victim had come to the place of occurrence and had seen the accused-petitioner. The father of victim namely Raj Kumar-complainant has been examined as PW-1 and he along with the victim PW-2 have fully proved that it is the petitioner who had committed the illegal act with the child of the complainant. Dr. Arshdeep Singh PW-3 has fully proved the medical evidence on record, which clearly goes on to show that the unfortunate act had been committed on the person of the victim. PW-8 Gurmeet Kaur has proved the age of the petitioner and the

investigation conducted. The ocular version and the medical evidence clearly proved the guilt of the petitioner. The judgments passed by the Additional Sessions Judge, Amritsar and the Principal Magistrate Juvenile Justice Board, Amritsar are well-reasoned and based on correct appreciation of the evidence and the documents on record and do not call for any interference.

In view of the above-said facts and circumstances, the present revision petition is dismissed.

(VIKAS BAHL)
JUDGE

08.09.2021
JITESH (JTS)

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