

**In the High Court for the States of Punjab and Haryana  
at Chandigarh**

**CRR-1195-2022 (O&M)**

**Date of Decision: August 05, 2022**

*Kuldeep*

*... Petitioner*

*Versus*

*State of Haryana*

*... Respondent*

**CORAM: HON'BLE MR. JUSTICE VIVEK PURI**

Present: Mr. Deepak Gollen, Advocate,  
for the petitioner.

**Vivek Puri, J.**

**CRM-27107-2022**

This is an application for placing on record the copy of the charge-sheet dated 21.05.2022 (Annexure P-5) and the statement of the victim (Annexure P-6). The same are taken on record.

Registry is directed to tag Annexures P-5 and P-6 at the appropriate place.

Application is disposed of accordingly.

**CRR-1195-2022**

The petitioner has assailed the order dated 21.05.2022 passed by the Court of learned Additional Sessions Judge, Fast Track Special Court, Narnaul, vide which the charges have been framed against him.

Briefly, the FIR has been registered on the basis of the statement of the grandfather of the victim alleging

that the victim is aged about 17 years and born on 29.01.2004. Raman co-accused has kidnapped the victim and was spotted while going towards Ateli on a bike. During the course of investigation, the complainant and Vikas had informed that the victim and co-accused Raman had gone with the petitioner on his bike bearing registration no. HR35J-9911. Accordingly, the petitioner has also been nominated as an accused in the instant case.

On completion of the investigation, the challan has been presented and the charge under Sections 120-B, 363, 366A of the Indian Penal Code and Section 17 of the Protection of Children from Sexual Offences Act (for short 'POCSO Act') has been framed against the petitioner. However, besides the aforesaid offences, Raman co-accused has also been charged for having committed the offence under Section 6 of the POCSO Act and Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

Learned counsel for the petitioner contends that in the statement recorded under Section 164 of the Code of Criminal Procedure (for short 'Cr.P.C.'), the victim has stated that she left the house on 03.05.2021 of her own and had called Raman. It has been argued that the petitioner incidentally met them and had only dropped them at Halawas on his bike. The victim was not known to the

petitioner and there is no material on record to indicate conspiracy. It has also been argued that the petitioner had innocently given the lift to Raman co-accused and the victim in a bona fide manner. Furthermore, during the course of trial, the statement of victim has been recorded and she has not supported the prosecution version.

At the very outset, it may be mentioned that conspiracy is hatched in a secret manner and the same is to be inferred from the facts and circumstances emerging in the case. In the instant case, though the petitioner is seeking to built up a case to the effect that the victim was not known to him earlier, but in the statement recorded under Section 164 Cr.P.C., the victim has stated that the petitioner is resident of her village and dropped the victim and Raman co-accused on his bike to Halawas. Thereafter, the co-accused and the victim took an auto and went to Bhiwani. Consequently, it cannot be concluded at this stage that the victim was not known to the petitioner. The victim is less than 18 years of age at the time of occurrence. The petitioner had carried the co-accused and the victim on his motor-cycle to Halawas. It has not been disputed that the petitioner is the owner of the motor-cycle. Furthermore, during the course of investigation, it has also emerged that the complainant and Vikas had informed that the petitioner had taken the co-accused Raman and the victim on his

motor-cycle. Even during the course of medical examination, the victim had given the history to the effect that she was on friendly terms with Raman and they had regular sexual intercourse. It is also emerging in the said statement that the petitioner had dropped Raman co-accused and the victim at Halawas near Bhiwadi on a motor-cycle.

The defence version of the petitioner cannot be accepted at this stage and considered at the time of framing of charge. The charge can be framed even on the basis of the strong suspicion. It cannot be said that there is complete absence of material against the petitioner for framing of charge. In the instant case, there is sufficient material to prima facie indicate that the petitioner is a party to the conspiracy in kidnapping of the victim. He had facilitated the commission of crime by the co-accused by carrying the co-accused and the victim on his motor-cycle. The medical history given by the victim at the time of her medical examination also indicates the commission of sexual intercourse. The age of the victim is less than 18 years. It will be too early to accept the defence version that the petitioner had innocently given the lift under a bona fide belief. He has even been named by two relatives of the victim. Besides his name is emerging in the statement of the victim recorded under Section 164 Cr.P.C. and at the time of medical examination. The petitioner had given lift and

facilitated the co-accused in commission of crime. Undisputedly, the petitioner is the owner of the motor-cycle. Consequently, it cannot be said that the learned trial Court has erred in framing the charges without any prima facie case against the petitioner.

It may also be mentioned here that the petitioner is sought to rely upon the statement of the victim, which has been recorded during the course of the trial. The victim has not supported the prosecution version, but it cannot be termed to be circumstance to conclude that no prima facie case was made out against the petitioner at the time of framing of charges. The said statement has been recorded during the course of trial, after the charges have been framed and the evidentiary value of such statement is to be adjudicated by the trial Court along with the other evidence at the appropriate stage of the trial.

In these circumstances, no illegality or irregularity is made out in the impugned order.

Instant petition is dismissed accordingly.

**August 05, 2022**

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**(Vivek Puri)**

**Judge**

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