

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

**CRA-D-1017-2022
Decided on 02.12.2022.**

State of Haryana

...Appellant

Versus

Ashok Kumar

..... Respondent

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

**Present: Mr. Pravindra S. Chauhan, Sr. Additional AG, Haryana
for the appellant.**

VIKRAM AGGARWAL, J.

Appellant seeks enhancement of sentence of the respondent-accused who was convicted vide judgment of conviction dated 12.11.2021 by the Additional Sessions Judge-Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') Court, Rohtak, under Sections 354-C, 506, 376 of Indian Penal Code, 1860 (for short 'IPC') read with Section 511 IPC and Section 6 read with Section 18 of the POCSO Act. Vide order of sentence of even date, the respondent-accused was sentenced to undergo rigorous imprisonment for a period of 02 years under Section 354-C, IPC alongwith fine of Rs.2,000/-, in default of payment of which, further rigorous imprisonment for a period of 02 months was ordered. Under Section 506 IPC, sentence of rigorous imprisonment for a period of 04 years was imposed. Under Section 376-C read with Section 511 IPC, he was sentenced to undergo rigorous imprisonment for a period of 05 years along with fine of Rs.5,000/-. In default of payment of fine, he was to further undergo

rigorous imprisonment for a period of 05 months and under Section 6 read with 18

of the POCSO Act, sentence rigorous imprisonment for a period of 05 years along with fine of Rs.5,000/- was imposed. In default of payment of fine, further rigorous imprisonment for a period of 05 months was ordered. It was also ordered that all sentences would run concurrently.

The victim herself had submitted a complaint alleging that in 2013, her mother had eloped with the respondent-accused leaving the victim and her brother with their father. Her mother solemnized marriage with the respondent-accused and from the said wedlock, a girl child was born. In October 2019, when the father of the victim was not at home, her mother allured her and took her away to the place where she was living with the respondent-accused. After maintaining her properly for a few days, one day when her mother was not at home and had, in fact, intentionally left her in the company of the respondent-accused, the respondent-accused tried to sexually assault her. The victim was left back at the house of her father by her mother after which the matter was reported to the police and the FIR was registered.

The accused was tried and was convicted and sentenced in the manner indicated in the preceding paragraphs.

Aggrieved by the inadequacy of sentence, the State has preferred the present appeal.

We have heard Mr. Pravindra S. Chauhan, Sr. Additional AG, Haryana, learned counsel for appellant-State of Haryana.

Sh. Chauhan has contended that the sentence imposed by the trial Court is inadequate, keeping in view the nature of the offence, the age of the victim and the manner in which the offence was committed. It has been contended that in such serious offences, severe punishment should be imposed which can act as a deterrent to such offenders and can be an eye opener for potential offenders.

State of Haryana, but are unable to agree with the same. No doubt, the offences committed by the victim who was a minor at the time of the incident do shock the conscience of the common man. Such incidents, especially those committed by ones own family members are increasing and they need to be curbed. One of the methods of curbing such incidents is of course severe punishment.

In our considered opinion, the punishment imposed by the trial Court is sufficiently severe keeping in view the nature of allegations and the offence committed. It has to be borne in mind that fortunately for the victim, the offence punishable under Section 376 IPC and Section 6 of the POCSO Act, was not committed and the victim suffered an attempt to commit the said offence. This alone would mean that the offence was not serious. However, keeping in view the provisions of Section 511 IPC and 18 of the POCSO Act, the sentence imposed upon the appellant is found to be adequate. The decision of the learned trial Court, therefore, does not call for any interference, insofar as, the sentence imposed is concerned.

In view of the aforementioned facts and circumstances, we do not find any merit in the present appeal and the same is hereby dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

02.12.2022

rekha sharma

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