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

CRM-A No. 690 of 2023 (O&M)
Date of Decision: 14.07.2023

State of Haryana

-Appellant

Versus

Sukhdev Singh

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Singh Mann, Addl. A.G., Haryana.

RAJ MOHAN SINGH, J. (Oral)

The State has preferred this appeal against the judgment of acquittal dated 08.04.2022 passed by the Additional Sessions Judge, Kurukshetra.

In respect of occurrence dated 23/24.11.2019, the FIR came to be registered on 15.12.2019. At the time of occurrence, the victim-prosecutrix was 17 years, 10 months and 14 days of age as her date of birth is 09.01.2002. All the material witnesses have resiled. There was a delay of 22 days in lodging the FIR. Though the victim is found to be minor within the ambit of Section 2(1) (d) of the POCSO Act, but the victim and her parents have not supported the case of the prosecution. Even

their re-examination did not yield any incriminating evidence. From the re-examination of victim, nothing could be extracted on record. In the re-examination of the victim, after receipt of FSL report, the victim has denied the photographs by claiming that the same are morphed and edited. In the report of Cyber Forensic Science Lab, Panchkula, no such opinion has been given that the relevant data extracted from the mobile and contained in DVD are not morphed or edited.

On the basis of material available on record, the trial Court proceeded to believe the hostile statements of material witnesses and dis-believed prosecution story inasmuch as that the alleged disclosure statement of the accused Ex.P27 did not satisfy the ingredients of Section 27 of the Indian Evidence Act. The statement did not lead to disclosure of any new fact as the place of occurrence was already known to the Investigating Officer. Therefore, disclosure statement and demarcation of place in pursuance thereof remained inconsequential.

Taking wholesome view of the prosecution story with reference to material on record, the trial Court has rightly concluded that the prosecution has failed to bring home the guilt of the accused to the hilt.

We find no reasons to dis-believe the findings of acquittal recorded by the trial Court.

The prayer for grant of leave to appeal is found to be devoid of merits and the same is accordingly, dismissed.

Since the leave to appeal has been dismissed on merits, therefore, there is no ground to condone the delay of 305 days in filing the leave to appeal. The application is also dismissed.

(RAJ MOHAN SINGH)
JUDGE

(HARPREET SINGH BRAR)
JUDGE

14.07.2023
Jyoti Sharma

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