

240 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2516-2016
Decided on : 11.05.2023

Rekha

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. S.K.Chauhan, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

1. The petitioner is impugning the judgment dated 27.05.2016 passed by learned Principal Magistrate, Juvenile Justice Board, Bhiwani vide which the respondent was acquitted for the commission of offence under Section 377 IPC and Section 6 of POCSO Act.

2. Learned counsel for the petitioner submitted that the Juvenile Justice Board had clearly erred in failing to appreciate the evidence, which had been led before it qua the commission of the offence, in its right perspective. Learned counsel further submitted that PW-2 i.e. mother of the victim as well as PW-4 i.e. the victim while stepping into the witness box had deposed as per the case of the prosecution, however, the Court below erroneously observed that the medical evidence was not sufficient to corroborate the allegations levelled. It was still further submitted that PW-3 Dr. Ranvir had duly proved that he had treated the victim and also removed a

plastic pipe from his rectum, which was sufficient enough evidence to prove the guilt of respondent No.2 beyond shadow of reasonable doubt. It was further submitted that no doubt there was delay in the lodging of the FIR but on this ground itself the truthfulness of the case of the prosecution could not be doubted.

3. Heard learned counsel and perused the relevant material available on record.

4. As per the case of prosecution, on 25.06.2015, the accused inserted a pipe measuring 4 x 2 inches in the rectum of the victim, aged 9 years and thus, committed an unnatural offence. The victim was admitted in Ranvir Hospital wherein he was subsequently operated upon. During investigation, the accused was found to be child in conflict with law, as he was below 18 years of age on the date of the commission of the alleged offence. After challan was presented, charges were framed as a *prima facie* case was made out and notice of accusation was served upon the juvenile in conflict with law for offences under Section 377 IPC and Section 6 of POCSO Act, to which he pleaded not guilty and claimed trial. On the basis of the material on record and other evidence, the Juvenile Justice Board acquitted the accused of the notice of accusation served upon him.

5. The occurrence in question took place on 25.06.2015, however, strangely the matter was reported to the police only on 29.07.2015. The victim was taken to the doctor on 03.07.2015. In the circumstances, it does raise eyebrows and cannot be digested that how a foreign object

(i.e. a plastic pipe) could have remained inside the rectum of the victim for as long as six days, when it was finally removed by the doctor. It would also be relevant to refer to the testimony of PW-12 Dr. Arti Bhardwaj alongwith the medico-legal report of the victim (Ex.PW-12/B) as she deposed that no mark of any external injury was found on the body of the victim at the time of his medical examination. Still further, the FIR in question came to be lodged only on 29.07.2015 i.e. after almost one month of the occurrence in question and after 26 days of the removal of the plastic pipe from the rectum of the victim by the doctor. Still further, as per the admitted case of the complainant, she learnt about the commission of crime on 03.07.2015, however, for reasons rather strange, she chose to keep quiet and no satisfactory explanation was brought forth qua the abnormal delay in reporting the crime, as the FIR was lodged only on 29.07.2015.

6. Coming next to the allegations of commission of offence under Section 377 IPC, it transpires from the perusal of the record that no cogent evidence was led qua the same. As per the FSL report (Ex.P1) no human semen was detected on the case property sent to it. Besides this, a perusal of the deposition of PW-3 Dr. Ranvir and PW-8 Dr. Anil Khandelwal reveals that no one from the family of the victim or even the victim alleged that latter had been subject to sodomy, when he was medico-legally examined.

7. As a sequel to the above, this Court does not find any illegality or perversity in the impugned judgment passed by the Juvenile Justice Board,

Bhiwani. Accordingly, the present petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

11.05.2023
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No