

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

102-A

CRR-1389-2023 (O&M)

Date of Decision: 10.08.2023

Piyush Saini and others

.... Petitioners

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Parminder Singh, Advocate for the petitioners.

Mr. Arjun Lakhanpal, Addl. A.G., Haryana.

NIDHI GUPTA, J. (ORAL)

Challenge in the present revision petition is to the order dated 03.05.2023, passed by the learned trial Court, whereby the application under Section 319 Cr.P.C. filed by the complainant was allowed and the petitioners were summoned to face trial in case FIR No. 991 dated 10.12.2019 (Annexure P-1) registered under Sections 376 and 506 IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 at Police Station City Karnal, District Karnal.

The brief factual matrix of the prosecution case is that the aforesaid FIR was registered on the basis of complaint moved by respondent No. 2-complainant/father of the victim alleging therein that his daughter/victim is 12 years old, and that on 09.12.2019, she tried to commit suicide by hanging herself with the aid of dupatta. He and his

wife stopped her and talked to her. She disclosed that on 21.09.2019, when she was alone in the house, Lovely and Shubham (petitioner No. 2 herein) forcibly entered inside their house and committed sexual assault upon her. They also clicked her photographs. Thereafter, on 25.09.2019, she was again forcibly raped by co-accused, Piyush and Himanshu (petitioners No. 1 and 3 herein). On both occasions, one of the accused used to hold her limbs and the other boy used to commit rape upon her. On 02.10.2019, she was again raped by Lovely and Shubham and thereafter, on 02.12.2019 by Piyush and Himanshu. They also clicked photographs of the victim and threatened her to make them viral on social media, in case, she narrate the occurrence to anyone. They also threatened to finish off her family. With these broad allegations, the complainant requested to take legal action against the accused persons.

Learned counsel for the petitioners *inter alia* submits that petitioner No. 1-Piyush Saini before this Court is a juvenile and investigation in the present case was carried out by a Special Investigation Team (SIT) in which the petitioners were found innocent. Even polygraph test was conducted and the call details and mobile locations of the petitioners, attendance register for petitioner No. 1-Piyush Saini, from DRS Senior Secondary School, Karnal and the attendance record of petitioners No. 2 and 3-Shubham and Himanshu from their job places for the alleged dates i.e. 21.09.2019, 25.09.2019, 02.10.2019 and 02.12.2019 were collected and all of three petitioners were found present at their respective places. It is submitted that the petitioners have falsely been implicated in the present matter.

Per contra, learned counsel for the State vehemently opposed the submissions made by learned counsel for the petitioners and has filed reply dated 07.08.2023 by way of affidavit of Smt. Pushpa, HPS, Additional Superintendent of Police Karnal, in Court today which is taken on record. Learned counsel for the State submits that at the time of alleged incident, the victim was a minor girl of 12 years and 7 months of age. She has committed suicide on 05.03.2021, during the pendency of the trial. It is further submitted that the victim in her statement dated 11.12.2019 (Annexure P-3) recorded under Section 164 Cr.P.C., has fully supported the case of the prosecution. As per prosecution version, the victim was repeatedly raped by petitioners and their co-accused-Lovely on 21.09.2019, 25.09.2019, 02.10.2019 and 02.12.2019. However, as the victim being a child was scared of the petitioner, therefore, the FIR (Annexure P-1) was lodged only on 10.12.2019. However, learned State counsel has fairly admitted that during the course of investigation, the petitioners were found innocent by the Special Investigation Team. Learned counsel for the State submitted that charges have been framed by the trial Court on 29.02.2020 and now the case is fixed for 16.08.2023, for appearance of the accused persons.

After hearing learned counsel for the parties and keeping in view the facts and circumstances of the case as noticed above; allegations levelled in the FIR against the petitioners and also the fact that the victim had committed suicide during the pendency of trial as well as the seriousness and gravity of the offences alleged to have been committed by the petitioners, this Court finds no merit in the instant revision petition.

Further, no illegality or perversity could be pointed out by the learned counsel for the petitioners in the impugned order passed by the learned trial Court warranting interference of this Court.

Accordingly, the present revision petition is dismissed.

10.08.2023
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No