

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

207

**CRM-A-718-2022
Decided on : 04.01.2023**

State of Punjab

.....Applicant(s)

Versus

Paramjit Singh

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Navneet Singh, Sr. DAG, Punjab.

G.S. Sandhawalia, J. (Oral)

Present application has been filed under Section 378 (3) Cr.P.C. for permission to file an appeal against the judgment of acquittal as per the judgment of the Special Judge, Moga dated 03.12.2021 in FIR No.1 dated 07.01.2020 under Sections 363, 366-A, 376, IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station, Badhni Kalan, District Moga.

The reason for acquittal is that the victim has not said a single word against the accused and stated that she never made any statement against the accused to the police. As per her statement signatures on the statement recorded under Section 164 Cr.P.C. (Ex.P1) that she suffered statement as per the tutoring done by the police officials. Therefore, keeping in view the non-conclusive report of the DNA Report, whereby it had been opined that the accused could not be excluded as source of human semen on the vaginal swabs of the victim, the benefit has to be granted. The trial Court has also noticed that DNA result must be corroborated by independent evidence before the same could be relied upon and is advisory in nature and the Court was not bound by the.

Resultantly, the benefit of doubt has been extended.

We have perused the judgment of the trial Court and found that the complainant Darshan Kaur, who is the cousin as such also did not support the case of the prosecution, who initially had stated to the police officials that the accused had induced the victim and who was employed at a scooter repair shop and had come in contact with the victim. The police officials and the medical officers as such have formally deposed and the Medical Officer stated that she had medically examined the victim who is stated to be 15 years of age. Apparently, nothing has come on record to show to prove her date of birth in the form of birth certificate issued by Registrar, Births & Death or in the form of School Admission/Leaving Certificate. Thus, in the absence of any substantial evidence either in the form of victim's age or in the form of complainant stating in affirmative, the benefit has rightly been granted by the trial Court. As noticed the age aspect and the minority as such of the victim has not been proved either by parents or by producing the relevant certificates by the investigating agency.

In such circumstances, this Court is of the opinion that the trial Court has not erred in any manner in granting the benefit of doubt as such to the respondent and no case is made out for granting permission to file an appeal under Section 378 (3) Cr.P.C. Accordingly, the present application is dismissed.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

04.01.2023

Naveen

Whether speaking/reasoned :
Whether Reportable :

Yes
No