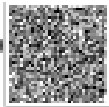


CRM-36595-2024in/and
CRA-S-303-2023

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2024.PHHC:120969



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-36595-2024in/and
CRA-S-303-2023

Date of Decision: 13.09.2024

Deepak Aggarwal

.... Appellant

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Vaibhav Prashar, Advocate
for the applicant-appellant.

Mr. Surinder Kumar Dagar, DAG, Haryana.

NIDHI GUPTA, J. (ORAL)

CRM-36595-2024

This is an application filed under Section 482 Cr.P.C. for fixing actual date of hearing in the main appeal and also to withdraw the same.

Perusal of the record shows that vide judgment of conviction dated 15.12.2022 and order of sentence dated 19.12.2022, passed by the learned Additional Sessions Judge, Fast Track Special Court, Faridabad, the applicant-appellant was convicted and sentenced in case FIR No. 247 dated 22.11.2019 registered under Section 452 and Section 10 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Women, NIT Faridabad. The applicant-appellant has been convicted and sentenced by the learned trial Court, as under:-



Under Section	Sentence imposed	In default of payment of fine
323 IPC	Rigorous imprisonment for 01 year.	----
342 IPC	Rigorous imprisonment for 01 year.	----
10 of the POCSO Act	Rigorous imprisonment for 05 years and to pay a fine of Rs.30,000/-.	Simple Imprisonment for 15 days.
All the above sentences were ordered to run concurrently.		

The appeal stands admitted by a co-ordinate Bench of this Court, vide order dated 01.02.2023 and recovery of fine of Rs.30,000/- imposed upon the applicant-appellant was also ordered to be remain stayed during the pendency of the present appeal.

Learned counsel for the applicant-appellant submits that the applicant-appellant has been in judicial custody since the date of his arrest i.e. 23.12.02019 and by now, he has undergone the entire period sentence awarded to him, vide judgment impugned herein. However, on account of pendency of the instant appeal and due to stay upon recovery of fine by this Court vide order dated 01.02.2023, the learned trial Court is not accepting the payment of fine imposed upon the applicant-appellant. Thus, it is prayed that the instant application may be allowed and the applicant-appellant may be permitted to withdraw the main appeal.

Notice of the application.

On the asking of Court, Mr. Surinder Kumar Dagar, DAG, Haryana, accepts notice on behalf of respondent-State and has not disputed that aforesaid submissions of learned counsel for the applicant-appellant.



Heard.

In view of the above and for the reasons mentioned in the application, the same is allowed and the main appeal is ordered to be listed for hearing today itself.

CRA-S-303-2023

With the consent of learned counsel for the parties, the main appeal is ordered to be taken up for hearing today itself.

Learned counsel for the appellants submits that for the reasons recorded above, he may be permitted to withdraw the main appeal.

In view of the above, the instant appeal is dismissed as withdrawn.

Keeping in view the fact that the victim at the time of alleged occurrence was only 03 years of age; whereas the appellant was 30 years of age, the order dated 01.02.2023, passed by a co-ordinate Bench of this Court, staying recovery of fine is hereby recalled.

The appellant is directed to deposit the fine of Rs.30,000/- as ordered by the learned trial vide order of sentence dated 19.12.2022, before the learned trial Court.

13.09.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned **Yes/No**

Whether Reportable **Yes/No**