

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

880

CRA-S-2524-SB-2017
Date of Decision: 19.09.2024

SONU @ VICKY

... Appellant

Vs.

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Amandeep Kaur, *Amicus Curiae* for the appellant.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J.

1. The present appeal is preferred against the judgment of conviction and order of sentence dated 07.07.2015 passed by the learned Additional Sessions Judge, Kapurthala in FIR No. 11 dated 31.01.2014 registered under Sections 376 read with Section 511 of IPC and Sections 4, 8, 12 of POCSO Act, 2012 at Police Station- City, Phagwara. The appellant was sentenced as follows:

Offence under Section	Sentence
376 IPC read with Section 511 of IPC	Rigorous imprisonment for5 years and a fine of Rs. 20,000/-. Further R.I. for 20 days in case of default.
Section 4 of POCSO Act read with Section 511 IPC	Rigorous imprisonment for 7 years and a fine of Rs. 10,000/-. Further R.I. for 10 days in case of default.
Section 8 of POCSO Act	Rigorous imprisonment for 3 years and a fine of Rs. 10,000/-. Further R.I. for 10 days in case of default.

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Section 12 of POCSO Act	Rigorous imprisonment for 3 years and a fine of Rs. 10,000/-. Further R.I. for 10 days in case of default. (Rs.50,000/- fine along with Rs.10,000/- as compensation to the victim)
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2. Succinctly, the facts are that on 31.01.2014, the mother of the victim child met SI Rajbir Kaur and got her statement recorded, wherein, it was alleged by her that on 31.01.2014, her minor children were playing outside on the street. Suddenly, her son aged about 8 years came inside the house crying and informed her that his younger sister aged about 4 ½ years was taken by the appellant inside a room. The complainant along with two other persons, namely Raj Kumar and Ravinder Kumar, went and opened the door of the room and found her daughter screaming. Further, the appellant had removed his trousers as well as those of the child victim and was trying to rape her. On seeing the said persons, the appellant fled away from the spot. The aforesaid statement culminated into FIR (supra). Upon completion of investigation, final police report was filed against the appellant and consequently, charges were framed against him for commission of offence punishable under Section 376 read with Section 511 of IPC, and Sections 4, 8, 12 of POCSO Act, 2012, to which he pleaded innocence and claimed trial. During the course of trial, the prosecution examined 12 witnesses to establish their case whereas, the appellant-accused did not lead any evidence in his defence. Ultimately, the appellant was convicted and sentenced in the manner mentioned above. Aggrieved, he has approached this Court by way

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of the present appeal.

3. Ms. Amandeep Kaur, Advocate, Enrollment No.PH/9262/2022, Phone No.77400-47663 is appointed *Amicus Curiae* the present case to assist this Court.

4. Learned State counsel contends that the impugned judgment of conviction as well as the order of sentence has been passed by the learned trial Court after duly appreciating the complete evidence on record. He further submits that the guilt of the appellant has been established well beyond the shadow of reasonable doubt and therefore, no interference is warranted by this Court. However, it is also submitted by him that as per the custody certificate, the appellant had completed his sentence on 17.04.2020 and subsequently, he was released from jail on the same day.

5. I have heard the learned State counsel and perused the paper-book with his able assistance. It transpires that in the case at hand, the ocular evidence is in complete consonance with the documentary evidence including the medical evidence. The complainant/mother was examined as PW-1 before the learned trial Court where she categorically stated that the appellant was caught red handed by her along with Raj Kumar and Ravinder Kumar, while he was trying to sexually assault the child victim and when he tried to run away, he was apprehended. The testimony of PW-1 has been duly corroborated by the child victim when she was examined as PW-3 by the learned trial Court after finding her competent to depose. Furthermore, the testimonies of both eye-witnesses, i.e., Ravinder Kumar (PW-2) and Raj

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Kumar (PW-7) duly corroborate the version of the complainant and the child victim. As per the statement of Medical Officer (PW-9), the appellant was medico-legally examined by him and he was found to be fit to perform sexual intercourse. The evidence put forth by Dr. Kulwinder Kaur (PW-12) has also confirmed the prosecution version. Moreover, other than few minor discrepancies in the testimonies of the prosecution witnesses which are bound to happen with passage of time, there is nothing on record that comes to the rescue of the appellant.

6. After examining the entire evidence in light of the facts and circumstances of the present, this Court is able to say with certitude that the guilt of the appellant has been established beyond the shadow of reasonable doubt. Therefore, no interference is warranted by this Court apropos the present case.

7. Resultantly, the present appeal is dismissed since it is bereft of any merit.

8. Pending miscellaneous application(s), if any, shall also stand disposed of accordingly.

9. High Court Legal Services Committee is directed to pay the remuneration to the *amicus curiae* as per Rules.

19.09.2024
manisha

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No