

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

CRM-M-16734-2024 (O&M)

Date of Decision: 19.04.2024

JASPREET SINGH

.....PETITIONER

Vs.

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Mohit Jaggi, Advocate, for the petitioner.
Ms. Himani Arora, A.A.G., Punjab.

HARPREET KAUR JEEWAN J.

1. Prayer in the present petition is for quashing the order dated 29.07.2022, passed by Additional Sessions Judge, Bathinda, whereby the petitioner was declared a Proclaimed Offender in case FIR No. 130, dated 25.12.2021, under Sections 376, 363, 366 and 506 of the Indian Penal Code (for short '*the IPC*') read with Section 34 thereof and Sections 3 and 4 of the Protection of Children from Sexual Offences, Act, 2012 (for short '*the POCSO Act*') registered at Police Station Raman, District Bathinda.

2. As per the factual matrix, the FIR against the petitioner and his co-accused was registered on 25.12.2021, on the basis of statement suffered by the prosecutrix *inter alia* with the allegations that on 22.12.2021 at about 07:30 p.m. while her parents and siblings were watching TV in her room, she went outside to fetch cotton straw/wood, where the petitioner Jaspreet Singh and his friend Labh Singh came near her and after intimidating her forcibly took her on a motor cycle in the fields where she was physically violated by petitioner Jaspreet Singh while his co-accused Labh Singh stood as a guard outside the room. Later on in the morning, they made her board a train to

Sirsa and she returned home in the evening. The prosecutrix was produced before the Judicial Magistrate on 30.12.2021 wherein she reiterated her version in the statement recorded under Section 164 Cr.P.C.. Labh Singh co-accused of the present petitioner was arrested. After completion of the investigation, final report '*challan*' under Section 173 (2) of the Code of Criminal Procedure, 1973 (for short '*the Code*') was presented before the competent Court. The prosecutrix was examined. Apart from the medical evidence, considering the report of DNA examination, PW-2 Dr. Diviya Gupta Jindal, gave the opinion that as per the said report human semen was though present, however, the same did not belong to Labh Singh (co-accused of the petitioner). By recording various reasons and giving the benefit of doubt, Labh Singh (co-accused of the petitioner) was acquitted.

2.1. The petitioner could not be arrested, as such, he was declared Proclaimed Offender, as per the impugned order, dated 29.07.2022 passed by Additional Sessions Judge, Bathinda.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner did not appear before the trial Court as he was falsely implicated in the present case. Co-accused of the petitioner has already been acquitted by the trial Court, as per the judgment dated 08.12.2023 (Anenxure P-2). There is unexplained delay in lodging the present FIR. The petitioner is innocent and ready to surrender before the trial Court, as such, the impugned order is liable to be quashed.

4. Learned State counsel has opposed the present petition. The petitioner is resident of Village Bangi Nihal Singh, Police Station Raman, Tehsil Talwandi Sabo, District Bathinda. The FIR has been registered in the

same police station. The petitioner has not put-forth any explanation for non-appearance before the investigating officer and before the trial Court. The impugned order dated 29.07.2022 (Annexure P-1) indicates that even proclamation has been issued which was executed on 13.06.2022. Mandatory period of 30 days passed. The petitioner did not appear, as such, he was declared Proclaimed Offender on 29.07.2022. The present petition has been filed after a long delay on 18.03.2024.

5. It has been further noticed that the age of the victim is 15 years and there are allegations that the petitioner had sexually assaulted the prosecutrix child victim. It has been noticed by the trial Court that as per the DNA report, semen was present on Exhibit A-8 to A-10. There was no allegations of physical violation against co-accused Labh Singh. As such, it is the reason for non-matching of the sample of Labh Singh (co-accused of the petitioner) with the human semen found present on Exhibit A-8 to A-10.

6. In view of the above, no ground for setting aside the impugned order is made out.

7. As such, the present petition stands dismissed.

8. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

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

April 19, 2024

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(HARPREET KAUR JEEWAN)

JUDGE

Whether Speaking	Yes
Whether reportable	No