



CRM-A-213-2021 (O&M)

1

209 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-A-213-2021 (O&M)

Date of Decision: 25.09.2024

State of Haryana

...Applicant-Appellant

versus

Amit alias Mita and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vikas Bharadwaj, AAG Haryana
for the appellant.

Harpreet Singh Brar, J. (Oral)

1. The present application is preferred under Section 378(3) of the Cr.P.C. against the judgment of acquittal dated 12.03.2020 passed by learned Additional Sessions Judge, Special Court, Kaithal in the case stemming from FIR No. 50 dated 16.03.2019 registered under Sections 354-A IPC and Section 12 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter 'POCSO Act') at Police Station Rajaund, Kaithal.

2. Briefly the facts are that on 16.03.2019, the prosecutrix was going to school when the respondents-accused came up to her on his motorcycle and forcibly took her to the fields. They started teasing her but the persons working on the field reached the spot causing the respondents-accused to flee from the spot.

3. Having heard the learned State counsel and after perusing the record of the case with his able assistance, it transpires that the prosecutrix in her deposition as PW1, stated that the respondents-accused offered to drop her to school but took her to the fields instead and raped her. However, in the complaint



and Ex. PW1/H), it was stated that they took her to the field and started teasing her but were caught by the persons working there. Also, the prosecutrix had refused to get herself medically examined. In fact, an application was moved seeking alteration of charges but the same was dismissed by the learned trial Court.

4. Further still, the prosecutrix was allegedly kidnapped from an area surrounded by residential houses, however, no witness was examined from the locality. Curiously, the prosecutrix did not raise any alarm to attract the attention of the locals. Even the mother of the prosecutrix, who appeared as PW2, did not support the case of the prosecution and was declared hostile. PW4-Vinod, spot witness, had deposed that he chased away the boys, who were on a motorcycle and had torn the victim's clothes. The version put forth by PW4-Vinod does not resemble the deposition made by PW1 or PW2. In fact, PW1-prosecutrix never alleged that her clothes were torn by the accused.

5. The power of the Appellate Court to unsettle the order of acquittal on the basis of re-appreciation of the evidence is subject to the settled law that where two views are possible and out of the two, one points towards the innocence of the accused, the view which favours the accused should prevail over the other pointing towards his guilt. Furthermore, the trial Court has the additional advantage of closely observing the prosecution witnesses and their demeanour, while deciding about the reliability of the version of prosecution witnesses. (See: ***H.D. Sundara and others vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023; Kali Ram vs. State of H.P., 1973 (2) SCC 808 and Chandrappa and others vs. State of Karnataka, (2007) 4 SCC 415***). A Division bench of this Court in the judgment passed in ***State of Haryana vs. Ankit and***



presumption of innocence further gets entrenched on the acquittal of accused by the trial Court.

6. In view of the facts and circumstances of the case, this Court finds that learned State counsel has failed to point out any perversity or illegality in findings recorded by the learned trial Court which warrants interference by this Court. As such, there is no merit in the present application and hence, the same is hereby dismissed.

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

(HARPREET SINGH BRAR)
JUDGE

25.09.2024
Ajay Goswami

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