



In the High Court of Punjab and Haryana at Chandigarh

CRA-D-644-2023 (O&M)

Reserved on: 19.11.2024

Date of Decision: 03.12.2024

Ramandeep Singh @ Labha

.....Appellant

Versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Argued by: Mr. Harpreet Singh, Advocate
for the appellant.

Mr. Maninder Singh, Sr. DAG, Punjab.

SURESHWAR THAKUR, J.

1. The instant appeal is directed against the impugned verdict, as made on 24.11.2021, upon case bearing No. SC/171/2020, by the learned Additional Sessions Judge-cum-Judge, Special Court, Kapurthala, wherethrough in respect of charges drawn against the accused qua offences punishable under Section 376-AB of the IPC, and, under Section 6 of the Protection of Children From Sexual Offences Act, 2012 (in short 'the POCSO Act'), thus the learned trial Judge concerned, proceeded to record a finding of conviction against accused-appellant under Section 376-AB IPC.

2. Moreover, through a separate sentencing order of even date, the learned trial Judge concerned, sentenced the convict to undergo rigorous imprisonment for a period of 20 years for the commission of an offence punishable under Section 376-AB, besides also imposed, upon the convict sentence of fine, as comprised in a sum of Rs. 30,000/-, and, in default of

payment of fine amount, she sentenced the convict to undergo rigorous



imprisonment for a period of one year. It was also ordered that out of the said imposed sentence of fine, Rs. 20,000/- would be given to the prosecutrix as compensation.

3. In addition, under Section 357-A Cr.P.C., the victim/prosecutrix became granted Rs. 80,000/-, under the apposite compensation scheme. The same was directed to be paid by the District Legal Aid Services Authority, Kapurthala by way of an FDR in some nationalized bank in the name of the victim/prosecutrix.

4. The period of detention undergone by the appellant-convict, during the investigations, and, trial of the case, was, in terms of Section 428 of the Cr.P.C., rather ordered to be set off from the above imposed sentence(s) of imprisonment.

5. The accused-convict becomes aggrieved from the above drawn verdict of conviction, besides also, becomes aggrieved from the consequent thereto sentence(s) of imprisonment, and, of fine as became imposed, upon him, by the learned convicting Court concerned, and, hence has chosen to institute thereagainst the instant criminal appeal, before this Court.

Factual Background

6. The genesis of the prosecution case becomes embodied in the appeal FIR, to which Ex. PW-9/B is assigned. The narrations carried in Ex PW-9/B are, that the mother of the complainant, namely, Manjit Kaur made a statement (Ex. PW3/A) before the investigating officer concerned, to the effect that her husband Mewa Singh is residing in Mumbai for labour work, whereas, she alongwith her two daughters are residing in her in laws family. She further states therein, that yesterday night, her elder daughter victimXXXX (name withheld), aged about 08 years, student of 4th standard,

told her that sometime ago Labha had committed indecent and inappropriate



act with her. She did not disclose the matter due to fear of her father. But, now again, four days prior from today, on Sunday, at about 5.30 p.m. when she was playing hide and seek with her friends Anmol and others, Labha took her to his house on the pretext that Anmol is hiding herself in his house. Upon which her daughter went to the house of the said accused, from where he took her in bathroom, removed his pants, and inserted his private part into her private part. Her daughter tried to stop him but could not succeed. The accused on hearing tapping, left the victim. Thereafter the victim came back to home. The complainant further states, that the due to fear her daughter did not disclose the said fact to her, and, now she is disclosing everything to her (mother) as now her father is not at home. After discussing matter with her husband telephonically. she reported the matter to the police, and, prayed that action be taken against the accused.

7. After recording statement Ex.PW3/A, it was read over and explained to Manjit Kaur (complainant/mother of victim) in presence of Tarsem Singh, who in token of its correctness appended her signatures in Punjabi at point A. Tarsem Singh counter signed Statement Ex. PW3/A, and, on the basis of the said statement, the appeal FIR became registered.

Investigation proceedings

8. During investigations, rough site plan was prepared. The complainant produced the photocopy of Birth certificate of victim, which was taken into possession vide separate recovery memo. Raid was conducted to arrest Ramandeep Singh @ Labha but his house was lying locked. On the same day, the victim was produced before Dr. Inderjit Kaur, Medical Officer Civil Hospital Bholath but due to late hours she was asked to come for medical examination on next day. Custody of victim was handed over to



examination at Civil Hospital, Bholath. The statement of the victim under section 164 Cr.PC recorded.

9. On 25.08.2020, Harbans Lal (father of the accused) produced Ramandeep Singh @ Labha before the investigating officer concerned alongwith the relevant documents showing him to be a juvenile. The said documents were taken into possession and Ramandeep Singh @ Labha was produced before medical officer, and after his medical examination he was taken to Juvenile Justice Board, Kapurthala from where he was sent to Child Observation Home, Hoshiarpur.

10. Swabs of the victim and of Ramandeep Singh @ Labha CCL were sent for chemical examination. The documents showing date of birth of the victim as well as Ramandeep Singh @ Labha were taken into possession. Statements of witnesses recorded under section 161 Cr.PC. After conclusion of investigations, the investigating officer concerned, proceeded to institute a report under Section 173 of the Cr.P.C., before the learned Principal Magistrate, Juvenile Justice Board, Kapurthala.

11. During enquiry conducted by Juvenile Justice Board concerned, accused Ramandeep Singh @ Labha was declared as Child in Conflict with Law vide Order dated 6.10.2020.

12. During the course of preliminary enquiry, on 26.10.2020, the Juvenile Justice Board concerned, passed the hereinafter extracted order:-

“Ramandeep Singh @ Labha was assessed to be a person having mental as well as physical capacity to understand the consequences of offences committed as on 20.8.2020 and is not entitled to be given benefit of immatured child by keeping his enquiry proceedings before the Board.”



13. Subsequently, the enquiry proceedings were transferred to the Children's Court concerned, exercising the power to deal with the cases of Protection of Children from Sexual Offences Act.

Trial Proceedings

14. The learned trial Judge concerned, after receiving the case for trial, made an objective analysis of the incriminatory material, adduced before her. Resultantly, she proceeded to draw charges against the accused, for offences punishable under Section 376 AB IPC, and, under Section 6 of the POCSO Act. The afore drawn charges were put to the accused, to which he pleaded not guilty, and, claimed trial.

15. In proof of its case, the prosecution examined 12 witnesses, and, thereafter the learned Public Prosecutor concerned, closed the prosecution evidence. After the closure of prosecution evidence, the learned trial Judge concerned, drew proceedings, under Section 313 of the Cr.P.C., but thereins, the accused pleaded innocence, and, claimed false implication. He, however, chose to adduce defence evidence, and led lead one witness into the witness box.

Submissions of the learned counsel for the appellant

16. The learned counsel for the aggrieved convict-appellant has argued before this Court, that both the impugned verdict of conviction, and, consequent thereto order of sentence, thus require an interference. He supports the above submission on the ground, that they are based on a gross misappreciation, and, non-appreciation of evidence germane to the charge.



Submissions of the learned State counsel

17. On the other hand, the learned State counsel has argued before this Court, that the verdict of conviction, and, consequent thereto sentence(s) (supra), as become imposed upon the convict, are well merited, and, do not require any interference, being made by this Court in the exercise of its appellate jurisdiction. Therefore, he has argued that the instant appeal, as preferred by the convict, be dismissed.

Analysis of the submissions (supra)

18. The victim, as unfolded by Ex. PW-8/A, proven by Mandeep Singh, Clerk, Nagar Panchayat Shahkot, District Jalandhar (PW-11), exhibit whereof encloses her date of birth, was born on 26.11.2012. PW-11, who brought the register containing the entries regarding the date of birth of the year 2012, deposed that as per entry No. 480, the victim was born on 26.11.2012. Therefore, the above revelation made therein appertaining to the date of birth of the prosecutrix, does naturally acquire probative sanctity, moreso when, no effective cross-examination became conducted, upon the said witness, by the learned defence counsel, so as to bely the disclosures (supra), as made therein.

19. Even otherwise since no other further evidence also became adduced by the defence, so as to bely the correctness of the disclosures (supra), as made in the exhibit (supra) thereby, grave evidentiary sanctity is to be assigned to exhibit (supra). Resultantly, since at the time of commission of the crime event, thus the prosecutrix was a minor, therefore, she became completely incapacitated to make any lawful consent to the accused to subject her to coitus, nor any exculpatory plea erected upon any consent being purveyed by the victim to the accused, but becomes

completely inconsequential.



20. The prosecutrix stepped into the witness box as PW-2. After the learned trial Judge concerned, ascertaining her competence to testify, from hers rendering intelligible answers to the relevant queries, as became put to her, thus declared that she was competent to depose as a witness, resultantly permitted her to testify before her. During the course of examination-in-chief of the prosecutrix, the statement made by her before the Illaqa Magistrate concerned, under Section 164 Cr.P.C., to which Ex. P-1 becomes assigned, was retrieved from a sealed envelope, and, was shown to the prosecutrix, whereupon she admitted that her signatures exist at Point-A of Ex. P-1. Moreover, she also proceeded to identify the accused in Court through whatsapp, and, implicated him to be the person, who had made a penetrative sexual assault, upon her.

21. A wholesome, and, conjoint reading of the testification of the prosecutrix, as carried respectively in her examination-in-chief, and, in her cross-examination, especially when she in her examination-in-chief, has attributed an unrebutted incriminatory role to the accused, thus boost an inference, that the prosecutrix has rendered a truthful confidence inspiring version, in respect of the penal occurrence.

22. Moreover, the mother of the prosecutrix stepped into the witness box as PW-3, and, she has therein proven her previously made statement, to which Ex. PW3/A, is assigned, and, which resulted in FIR (supra), becoming registered at the police station concerned.

23. Though, both the prosecutrix, and, her mother making voicings in unison, about the incriminatory participation of the accused in the penal occurrence. Thus, necessarily immense evidentiary credence, is to be assigned to their inter se corroborative depositions, as made in respect



Medical evidence

24. PW-1 Dr. Inderjeet Kaur proved the MLR Ex. PW-1/A. The supra witness when stepped into the witness box on 3.2.2021, thus deposed that upon examination of the victim, no injury was found present on her person. She further deposed that final opinion can be given after receiving the report of DNA expert concerned. Subsequently, on 2.9.2021, when the said witness was recalled for further examination-in-chief, she opined that on the basis of the report of the DNA examination, to which Ex. PW1/C, becomes assigned, the probability of recent or remote sexual intercourse cannot be ruled out. Consequently therefrom the statements (supra) receive apt corroboration.

Report of the FSL concerned, to which Ex. PW1/C becomes assigned

25. Through reference Nos. 654-CH dated 25.8.2020 and 674-CH dated 31.8.2020, three sealed cloth parcels became sent, through S/Ct. Jagjeet Singh No. 605 to the FSL concerned. The FSL concerned, thus upon making examinations of all the incriminatory items, as became sent to it in sealed cloth parcels, hence made thereons the hereinafter extracted opinion.

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Description of parcels and exhibits received

<i>Parcel No.</i>	<i>Seal impression/ No. of seals</i>	<i>Description of reference samples/exhibits</i>
A.	IK/06	<i>One white cloth parcel having a transparent plastic box containing four exhibits stated to be of Ms. Navjot Kaur marked A-1, A-2, A-3 and A-4 in the laboratory-</i> <i>Exhibit A-1- Anterior Vaginal Wall Swab</i> <i>One transparent plastic swab stick tube with red lid containing cotton swab having off-white colored stains.</i> <i>Exhibit A-2- Lateral Vaginal Wall Swab</i> <i>One transparent plastic swab stick tube with blue lid containing cotton swab having off-white colored stains.</i> <i>Exhibit A-3- Posterior Vaginal Wall Swab</i> <i>One transparent plastic swab stick tube with red</i>



lid containing cotton swab having off-white colored stains.

Exhibit A-4- Lateral Vaginal Wall Swab

One transparent plastic swab stick tube with blue lid containing cotton swab having off-white colored stains.

B. IK/06

One white cloth parcel having a transparent plastic box containing seven exhibits stated to be of Ms. Navjot Kaur marked B-1, B-2, B-3, B-4, B-5, B-6 and B-7 in the laboratory-

Exhibit B-1- Anterior Vaginal Wall Swab

One transparent plastic swab stick tube with red lid containing cotton swab having off-white colored stains.

Exhibit B-2- Posterior Vaginal Wall Swab

One transparent plastic swab stick tube with red lid containing cotton swab having off-white colored stains.

Exhibit B-3- Lateral Vaginal Wall Swab

One transparent plastic swab stick tube with blue lid containing cotton swab having off-white colored stains.

Exhibit B-4- Reference Blood Sample

One vacutainer with purple lid having blood sample stated to be of Ms. Navjot Kaur.

Exhibit B-5- Reference Blood Sample

One vacutainer with red lid having blood sample stated to be of Ms. Navjot Kaur.

Exhibit B-6- Oral Smear Slides

Two microscopic glass slide having whitish smear.

Exhibit B-7- Rectal Smear Slides

Two microscopic glass slide having whitish smear.

(Exhibits B-5, B-6, B-7 returned without examination)

C. GS/10

One parcel stated to contain blood sample of Mr. Ramandeep Singh. (Returned in original)

10. Result of Examination

The portions of Exhibits A-1, A-2, A-3 and A-4 contained in parcel A, Exhibits B-1, B-2 and B-3 contained in parcel B were tested for human semen by Acid Phosphatase, Prostate Specific Antigen (PSA) tests and microscopic examination.

10.1. DNA Extraction and Quantification

The portions of Exhibits A-1, A-2, A-3, A-4, B-1, B-2, and B-3 were subjected to differential extraction method to separate cellular non sperm fraction (epithelial cells) and cellular male fraction (sperm cells). DNA was extracted from the separated fractions and Exhibit B-4 using Prepfilr Kit (Applied Biosystems). The extracted DNA was quantified using Real Time PCR (Applied Biosystems).

**10.2. DNA STR Amplification**

The extracted DNA from Exhibits A-1, A-2, A-3, A-4, B-1, B-2, B-3 and B-4 were subjected to multiplex PCR amplification by using AmpFISTR GlobalFiler™ STR Kit (Applied Biosystems) for amplification of 24 STR loci (21 Autosomal loci, one Y-STR locus, one Y Indel locus and one Amelogenin).

10.3. DNA STR Analysis

The amplified products were run on ABI 3500 Automated Genetic Analyzer and analysed using Genemapper ID X software v 1.5 with respect to the Standard Allelic Ladder. In parallel, positive and negative controls were also run.

Observations

From the comprehensive analysis of the results obtained, the following observations have been made.

- (i) Complete DNA STR profile was obtained from Ex. B-4 (Source: Reference Blood of Ms. Navjot Kaur).*
- (ii) The DNA STR profile obtained from female fraction of Exhibits A-1, A-2, A-3, A-4, B-1, B-2 and B-3 (Source : Vaginal Swabs stated to be of Ms. Navjot Kaur) matches with the DNA STR profile obtained from Exhibit B-4 (Source : Reference Blood of Ms. Navjot Kaur).*
- (iii) No male DNA was detected on Exhibits A-1, A-2, A-3, A-4, B-1, B-2 and B-3 (Source : Vaginal Swabs stated to be of Ms. Navjot Kaur).*

Conclusion

From the observations, it is concluded that:

- (a) Human semen was not detected on Vaginal Swabs stated to be of Ms. Navjot Kaur (Source Exhibits A-1, A-2, A-3, A-4, B-1, B-2 and B-3).*
- (b) The female DNA present on Vaginal Swabs (Source : Exhibits A-1, A-2, A-3, A-4, B-1, B-2 and B-3) belongs to Ms. Navjot Kaur (Source Exhibit B-4)”*

26. Though, a reading of the above extracted result discloses, that the DNA expert concerned, could not from the relevant material, as became sent to him, draw any firm incriminatory opinion against the accused.



Though on the anvil of the report (supra) of the DNA expert, the learned counsel for the appellant has argued before this Court, that thereby the testification of the prosecutrix rather loses its credence. However, the above argument loses its sheen, as the above alluded clinching incriminatory evidence adduced by the prosecution, especially the confidence inspiring testification of the prosecutrix, thus overcomes the purported lack of incriminatory echoings in the results (supra) as made over the relevant examinations, rather by the DNA expert.

27. Importantly also, when in the event of any penetrative sexual assault becoming committed, upon a minor victim, thus does not require semen being detected on the vaginal swabs of the prosecutrix. Resultantly, thereby the absence of any inculpatory semen on the vaginal swab of the minor victim also does not over-rule the evidentiary efficacy of the testification of the prosecutrix.

Final order

28. The result of the above discussion, is that, this Court does not find any merit in the appeal, and, is constrained to dismiss it. Consequently, the appeal is dismissed. The impugned verdict of conviction, as becomes imposed upon the convict-appellant, by the learned convicting Court, is maintained, and, affirmed, besides also the consequent thereto sentence(s), as became imposed upon the convict-appellant, by the learned convicting Court, is also maintained, and, affirmed. If the convict-appellant is on bail, thereupon, the sentence(s) as imposed upon the convict-appellant, be ensured to be forthwith executed by the learned trial Judge concerned, through his drawing committal warrants. The case property be dealt with, in accordance with law, but after the expiry of the period of limitation for the

filling of an appeal.



- 29. Records be sent down forthwith.
- 30. The miscellaneous application(s), if any, is/are, also disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

December 03, 2024
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No