

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-A-155-2022 (O&M)

Date of order: 12.02.2024

State of Haryana

.....Applicant(s)

Vs.

Ravi

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Surinder Kumar Dagar, AAG Haryana.

Nidhi Gupta, J.

Present application under Section 378(3) Cr.P.C. is filed seeking grant of leave to appeal against judgment of acquittal dated 23.07.2021 passed by learned Additional Sessions Judge, Kurukshetra, whereby the respondent-accused has been acquitted.

2. Learned counsel for the applicant-State submits that in the present case the victim was only 14 years of age. Complaint dated 14.07.2019 was made by the mother of the victim as per which it was alleged that the respondent-accused used to talk with her minor daughter/victim in obscene language and also used to tease her. On the above-mentioned date, a call was made on mobile No.81687-30233 from mobile No.95883-78346 of respondent-accused Ravi and thereafter, when the complainant went to the accused to verify about it, he started quarreling and abusing her. He also threatened that he would kidnap her daughter.

3. It is further submitted that the victim appeared in the witness box as PW1. During her evidence, she deposed that she was studying in 8th class. Her date of birth was 08.10.2005. Accused Ravi used to live on second floor of their house. He used to abuse her and make telephone calls to her. He also used to tease her on the way to her school. She also stated that she had disclosed this to her mother. Further that, the accused Ravi had attempted to commit suicide and therefore, his family started living in another house on rent in the same locality. She further stated that accused Ravi made a telephonic call on the mobile phone of her mother and when she picked up the phone, he abused her. The victim further stated that she was produced before the learned Magistrate, where her statement under Section 164 Cr.P.C. (produced as Ex.P1 before the learned Additional Sessions Judge) was recorded. She further stated that after recording her said statement, her custody was handed over to her mother vide memo Ex.P2.

4. It is submitted that accordingly, the learned trial Court was in patent error in disregarding the testimony of the victim herself. It is stated that therefore, the accused has been wrongly acquitted and the impugned judgment deserves to be set aside.

5. No other argument is raised on behalf of the applicant.

6. I have heard learned counsel for the applicant and perused the record.

7. In the present case, the following findings of the learned trial Court are relevant and are reproduced hereinbelow:-

“23...As per statement of PW5, Nodal Officer of the concerned mobile company, as per call details records Ex.P13 & Ex.P15 of

both the phones, the calling party is 81687-30233 and called party is 95883-78346. The said call details record Ex.P13 & Ex.P15 pertains to the period 01.06.2019 to 15.07.2019. Though, the detailed perusal of the said call details record Ex.P15, pertaining to complainant/mother of victim reveals that 12 calls were made by the accused on her mobile, but the calls made from the mobile phone of complainant/mother of victim to the mobile phone of accused are more than 130 in number during the said period.

It is relevant to mention here that out of said 12 calls made from the mobile phone of accused to mobile phone of complainant/mother of victim, the duration of some of calls are very long i.e. one call made on 05.06.2019 for 2290 seconds, two calls made on 08.06.2019 for 542 & 712 seconds and one call made on 11.06.2019 for 1765 seconds. If the accused had called on the aforesaid dates on mobile phone of complainant/mother of victim and had talked for such a long durations, then strong suspicior (sic) arises that when the victim was being teased by him in those days, then what was the need for the victim to have conversation with him on mobile for such a long duration and why she did not disconnect the same after becoming aware of the fact that it was the accused who had called her. If the details of the said about 130 calls are seen, out of them many calls are of long duration. Here also, strong suspicion arises that what was the need to make call to the accused by the victim and had she been under said alleged threats, then why she had long conversations with the accused, as stated above. As per cross-examination of PW2 complainant/mother of victim, she had not made any conversation with accused Ravi from her mobile phone on his mobile phone. It is again reiterated here that as per cross-examination of PW1 victim, she was continuously in contact with accused on the mobile phone prior to the day of occurrence.

Therefore, in view of all the above, it can be concluded the victim & accused were known to each other and they were in touch with each other prior to 14.07.2019 and when the complainant/mother of victim came to know about them from the phone call made on that day, the victim made statements against the accused to the police and learned Magistrate under the pressure of her mother i.e. complainant”.

8. I am in complete concurrence with the above said reasoning of the learned trial court. Moreover, learned counsel for the applicant is unable to show anything to controvert the above said findings of the learned Court below.
9. In view of the above, I find no merit in the present application; and the same is accordingly, **dismissed**.
10. Pending application(s) if any also stand(s) disposed of.

12.02.2024
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No