



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
109

CRR-1882-2024 (O&M)
Date of Decision: 25.09.2024

Babu Khan

.... Petitioner

Versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Sumeetpal Singh Sidhu, Advocate for the petitioner.

Mr. Kunwarbir Singh, A.A.G., Punjab.

NIDHI GUPTA, J. (ORAL)

Challenge in the present revision petition is to the order dated 20.08.2024 passed by learned Additional Sessions Judge, Bathinda whereby the accused/respondent No.2 and 3 herein in FIR No. 6 dated 24.01.2023 registered by the petitioner under Sections 363, 366-A, 34 IPC at Police Station Nathana, Bathinda, have been discharged.

Learned counsel for the petitioner submits that besides the respondents No. 2 and 3 herein, one Gurpreet Singh son of Ajaib Singh was also nominated as accused in the above said FIR. The allegations in the FIR are that on 21.01.2023, the daughter of the petitioner had gone to school and did not come back. Later on, it was found that she was kidnapped by Gurpreet Singh, his father and mother/respondents No. 2 and 3, on the pretext of marriage.

Learned counsel further submits that the daughter of the



petitioner was a minor and was 16.5 years of age on the date of incident. It is accordingly prayed that the impugned order dated 20.08.2024 discharging respondents No. 2 and 3 being active participants in the commission of offence, be set aside.

Learned counsel for the State, on instructions from ASI Jasvir Singh, informs this Court that at the time of commission of offence, the victim was 16.5 years of age. The statement of the victim/daughter of the petitioner was recorded under Section 164 Cr.P.C. on 09.02.2023, wherein she has categorically stated that she wants to reside with Gurpeet Singh; that she does not wish to go with the petitioner; and that petitioner was mistreating her. It is submitted that victim has even made serious allegations against the petitioner that he had outraged the modesty of the victim.

It is further informed that victim alongwith Gurpeet Singh has filed a Protection Petition bearing No. CRWP-570-2023 which was allowed by a Coordinate Bench of this Court vide order dated 20.01.2023. The petitioner has filed an application in the said Protection Petition seeking withdrawal of order dated 20.01.2023 on the ground that the victim and Gurpreet Singh have misrepresented the facts before this Court. The said application of the petitioner is stated to be still pending.

Learned counsel for the State further informs that the victim is presently residing in Gandhi Vanita Ashram, Jalandhar.

I have heard learned counsel for the parties as also perused the case file in great detail.

Even if age of the victim is taken to be 16.5 years, reliance



is placed upon a recent judgment of High Court of Karnataka in “**G. Raghu Varma Vs. State of Karnataka & Others**” Criminal Petition No.13469 of 2023 (482) decided on 19.02.2024 Law Finder Doc ID # 2506169, wherein it has been held that consensual adolescent relationships cannot be criminalized. Relevant para No. 7, is reproduced as under:-

"7. The object of POCSO Act is to protect minors from sexual abuse and not to criminalize the consensual relationship between two adolescents who had consensual sexual intercourse without knowing the consequences. The petitioner and the survivor come from the lower socio economic segment having limited access to information and knowledge, thus depriving them about the consequences in having consensual sexual intercourse. Though having sexual intercourse consensually with the minor is an offence under the POCSO Act, however, having regard to the facts and circumstances of the case, to secure the ends of justice, it would be appropriate to quash the impugned proceedings, otherwise, it would result in miscarriage of justice to the survivor and the child."

In view of the above, present petition stands dismissed.

Pending application, if any, stands disposed of.

25.09.2024
Divyanshi

(NIDHI GUPTA)
JUDGE

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