



CRA-S-2347-2022 (O&M)

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216 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-2347-2022 (O&M)
Date of Decision: 05.11.2024

RAHUL KUMAR

.....Appellant

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Siddharth Gulati, Advocate
for the appellant.

Mr. Vikas Bhardwaj, AAG Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present appeal is preferred against the judgment dated 15.09.2022 and order on quantum of sentence dated 16.09.2022 passed by learned Additional Sessions Judge, Special Court, Kaithal vide which appellant has been convicted under Sections 323, 341, 354 and 506 all read with Section 34 of Indian Penal Code and Section 12 of Protection of Children from Sexual Offences Act, 2012.

2. The case of the prosecution as unfolded by complainant 'JR'-(uncle of child-victim), a resident of Village 'XXXXXX', District Kaithal (name/identity withheld for the purpose of secrecy), in his application/complaint dated 12.03.2020 is as under:

"He (complainant) is permanent resident of xxx Road, Ward No.xx. The daughter namely 'N' of his brother 'M', who is studying in 10th Class,

was returning to home from Adarsh Niketan School, xxxx, after her

exam. In the meantime, two young boys came in their street by stalking his niece on motorcycle. At that time, he and Ishwar Singh, resident of Amirgarh, now, Cheeka were talking, while standing in the street. Both the boys, restrained the way of his niece and teased her. She raised alarm and on seeing them coming, they both fled away from the spot on their motorcycle. While leaving the spot, they both threw colour (gulal) on his niece and extended threat to injure her. One of the boy, who is on motorcycle is named Rohit and his mother's name is Kamli and residents of Dhank Basti, Cheeka. Both boys teased his niece by restraining her way; he prayed that a strict legal action be taken against them.”

3. The learned trial Court, after assessing the material on record, held the appellant and the co-accused guilty vide judgement dated 15.09.2022 and awarded the following sentence vide order dated 16.09.2022 on quantum of sentence: -

Offence	Sentence
Under Section 323 read with Section 34 of the Indian Penal Code, 1860	To undergo simple imprisonment for a period of six (6) months and to pay a fine of Rs. 500/- (five hundred). In default of payment of fine, he shall further undergo simple imprisonment for a period of five days.
Under Section 341 read with Section 34 of the Indian Penal Code, 1860	To undergo simple imprisonment for a period of one (1) month and to pay a fine of Rs. 500/- (five hundred). In default of payment of fine, he shall further undergo simple imprisonment for a period of five days.
Under Section 354 read with Section 34 of the Indian Penal Code, 1860	To undergo simple imprisonment for a period of three (3) years and to pay a fine of rupees five thousand (Rs. 5,000/-). In default of payment of fine, he shall further undergo simple imprisonment for a period of one month.
Under Section 506 read with Section 34 of the Indian Penal	To undergo simple imprisonment for a period of two (2) years and to pay a fine of rupees two thousand (Rs. 2,000/-). In default of payment of fine, he shall further

Code, 1860	undergo simple imprisonment for a period of fifteen days.
Under Section 12 of Protection of Children from Sexual Offences Act, 2012	To undergo simple imprisonment for a period of two (2) years and to pay a fine of rupees five thousand (Rs. 5,000/-). In default of payment of fine, he shall further undergo simple imprisonment for a period of one month.

All the sentences shall run concurrently

4. Aggrieved by the same, the convict has preferred the present appeal before this Court.

5. Learned counsel for the appellant contends that he is not assailing the impugned judgment of conviction dated 15.09.2022 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the release of the appellant on probation of good conduct and urged the Court to take a lenient view of the matter as the appellant has reformed and intend to live his life as law-abiding citizen.

6. Per contra, learned State counsel opposes the prayer of the appellant on the ground that learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record and as such, he does not deserve any leniency. However, he could not controvert the fact that the appellant is not involved in any other case.

7. I have heard learned counsel for the parties and perused the paper book with their able assistance.

8. Section 3 and 4 of the Probation of Offenders Act empower the courts to release the offenders on probation of good conduct in the cases and circumstances mentioned therein. Similarly, Sections 360 and 361 of the Cr.P.C (401 and 402 of BNSS) also empower the courts to release the offenders on probation of good



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conduct in the cases and circumstances mentioned therein. A two Judge Bench of the Hon'ble Supreme Court in **Som Dutt and others Vs. State of Himachal Pradesh (2022) 6 SCC 722** speaking through Justice Bela M. Trivedi, has held as under:-

“6...having regard to the fact there are no criminal antecedents against the appellants, the court is inclined to give them the benefit of releasing them on probation of good conduct. In that view of the matter, while maintaining the conviction and sentence imposed on the appellants, it is directed that the appellants shall be released on probation of good conduct.....”

A two Judge Bench of the Hon'ble Supreme Court in **Lakhvir Singh Vs. State of Punjab (2021) 2 SCC 763** speaking through Justice Sanjay Kishan Kaul, has held as under:-

“6. We may notice that the Statement of Objects and Reasons of the said Act explains the rationale for the enactment and its amendments: to give the benefit of release of offenders on probation of good conduct instead of sentencing them to imprisonment. Thus, increasing emphasis on the reformation and rehabilitation of offenders as useful and self-reliant members of society without subjecting them to the deleterious effects of jail life is what is sought to be subserved.”

9. In view of the aforesaid facts and circumstances, the judgment passed by the learned Additional Sessions Judge, Special Court, Kaithal awarding a substantive sentence of three years under Sections 323, 341, 354, 506 all read with Section 34 of Indian Penal Code and Section 12 of Protection of Children from Sexual Offences Act, 2012 is upheld, however, having regard to the fact that the appellant has no criminal antecedents, this court is inclined to give them the benefit of probation of good conduct. In that view of the

matter, while maintaining the conviction and sentence imposed on the appellant, he is ordered to be released on probation of good conduct on furnishing a personal bond of Rs. 10,000/- with a surety of the like amount, and on further furnishing an undertaking to keep the peace and good behaviour for a period of one year, to the satisfaction of the concerned trial court within a period of two weeks. The appellant shall remain under the supervision of the concerned Probation Officer(s) during the aforesaid period. It is further directed that if the appellant fails to comply with the said directions or commit breach of the undertaking given by him, he shall be called upon to undergo the sentence imposed upon him by the learned Additional Sessions Judge, Special Court, Kaithal.

10. With the aforesaid directions, the instant appeal stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

05.11.2024
Ajay Goswami

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