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**IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH**

CRM-A-125-2019 (O&M)
Decided on: 01.04.2024

State of Haryana

.... Applicant

versus

Arun

.... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Rajesh Gaur, Addl. AG, Haryana.

Manjari Nehru Kaul, J. (Oral)

Instant application has been filed by the applicant-State under Section 378(3) Cr.PC feeling aggrieved against the order dated 31.08.2017 passed by learned Addl. Sessions Judge, Jhajjar vide which the accused has been acquitted of the charges framed against him.

2. To succinctly summarise the case, as put-forth by the complainant (mother of the victim), on 26.08.2015, around 7/7.30 am, an altercation ensued beneath the bridge between her son (hereinafter referred to as 'victim'), who was enroute to school, and the accused, Arjun. Subsequently, as a result of the scuffle, the accused had wrongfully confined the victim. The accused accompanied by 2-3 unidentified persons, allegedly subjected the victim to physical assault and attempted sodomy. Aforesaid allegations, however, were not supported through any documentary much less medical evidence. The complainant also alleged that prior to the occurrence in question, there

had been some altercations between the accused and the victim though no FIR in the said regard had been ever registered. Consequently, due to the sudden disappearance of the victim, the complainant filed an application Ex.PA on 27.08.2015 at Police Station Bahadurgarh. The victim was eventually found in Shivaji Park, New Delhi on 29.08.2015 and produced before the Police Post Assaudha and subsequently, before the Illaqa Magistrate, Bahadurgarh, where his statements were then recorded.

3. Learned counsel for the State has vehemently contended that the trial Court gravely erred in holding that the prosecution was unable to prove its case against the accused beyond reasonable doubt. Learned State counsel has argued that the statements of PW-1 Poonam (complainant) and PW-2 (victim) were not appreciated rather ignored by the trial Court while passing the impugned judgment even though they had reiterated the allegations against the accused. Learned State counsel has submitted that there had been a miscarriage of justice by the trial Court while acquitting the accused based solely on certain discrepancies in the testimonies of the prosecution witnesses even though those testimonies could not be said to be so significant so as to cast a shadow of doubt.

4. After hearing the parties and on the basis of the evidence and other material led during trial, the trial Court did not err in passing the impugned order by taking note of the absence of any incriminating evidence much less medical with respect to alleged assault.

Additionally, regarding the age of the victim being below 18 years except for his own testimony there was no corroboration to the said effect. In support, reliance was placed upon the judgment of Hon'ble Supreme Court in ***Jarnail Singh vs. State of Haryana, 2013 (3) Crl. Court Cases 720 (SC)***. Besides this, there were other significant discrepancies in the testimonies of the prosecution witnesses including the victim as well as the complainant coupled with unexplained and inordinate delay in the lodging of the FIR (Ex.PE), which undoubtedly raises a big question mark and casts a serious doubt on the version brought forth in the FIR. Consequently, the trial Court rightly acquitted the accused vide impugned order as there was insufficient evidence led to establish the case against the accused under both POCSO as well Indian Penal Code.

5. As a sequel to the above, the present application being devoid of any merit stands dismissed.
6. Since the main case already stands dismissed on merit, no separate order is required to be passed in the application for condonation of delay.

01.04.2024
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/non-speaking?
Whether reportable?

Yes/No
Yes/No