

2025:PHHC:091324-DB



**In the High Court for the States of Punjab and Haryana  
At Chandigarh**

CRM-10203-2020 in/and  
CRA-AD-151-2020  
Date of Decision: 23.7.2025

**Lashmi**

... Appellant

Versus

State of Punjab and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL  
HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present:- Mr. Devansh Khanna and  
Mr. Vaibhav Narang, Advocates  
for the applicant-appellant.

Mr. Kuljit Singh, Addl. A.G., Punjab.

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**DEEPAK GUPTA, J.**

**CM-10203-2020**

There is a delay of 23 days in filing the present appeal.

In view of the reasons mentioned in the application, the same is  
allowed and delay of 23 days in filing the present appeal is condoned.

**CRA-AD-151-2020**

1. It is complainant's appeal against acquittal, inasmuch as in a case arising out of FIR No.203 dated 30.6.2017 registered at Police Station A-Division, Amritsar, accused Armaan @ Harry (*respondent herein*) was tried for committing offences under Section 377 IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 (*hereinafter referred as 'the POCSO Act'*), but was acquitted vide judgment dated 13.11.2019 by learned Addl. Sessions Judge/Exclusive Court, Amritsar.
2. FIR emanates from a complaint made by 'L' on 30.6.2017 to the police, as per which, one of her sons 'P' (*hereinafter referred as 'victim'*), aged 11 years was complaining of pain in his abdomen for the last about 2-3 months. She used to take medicine from a Chemist to relieve the pain. However, for the last 2-3 days, her son was feeling pain in his anus. On her insistence on 27.6.2017, the victim told her that accused residing in their neighbourhood used to call him at his house from the last 2-3 months, and used to remove his nicker and insert his penis in his anus. It was further disclosed by the victim son of the complainant that accused used to give him milk and toffees and asked him not to disclose any of this act to his parents. Complainant told that after consulting with her family members, she had approached the police to take action against the accused.
3. FIR was registered. Investigation was carried out. Victim child was got medico legally examined from Government Medical College, Amritsar. Sealed parcel of swabs of the victim collected by the doctor were got analysed from Chemical Examiner, Kharar. Accused was arrested on 16.05.2018 and his potency test was got conducted. After completion of all

necessary formalities of investigation including recording the statements of victim and other witnesses, final report was submitted in the Court to prosecute the accused.

4. After making compliance of Section 207 Cr.P.C., case was committed to the Court of Sessions vide an order dated 20.09.2018. Accused was charge sheeted under Section 6 of POCSO Act and in the alternative, under Section 377 IPC, to which he pleaded not guilty and claimed trial.
5. To support its case, the prosecution examined 09 witnesses. PW-1 is the mother of the victim and the complainant of the case, who stood by her statement (Ex.PW1/A) made to the police and also added that accused used to show the victim child obscene films on his mobile and threatened him not to disclose the matter to anyone. PW2 is the minor victim, who corroborated the version given by his mother. PW3 - Dr. N.P. Singh had medico legally examined the accused and proved his report (Ex.PW3/A), as per which there was nothing to suggest that the accused cannot perform the act of sexual intercourse. PW4- Dr. Kamaljit Singh had conducted medical examination of the victim on 01.07.2017, who was brought by the police and accompanied by his mother. The history narrated by the mother of the victim was to the effect that 16-20 days back, her son was sexually assaulted by her neighbour at his home by anal and oral route. There was history of washing of clothes and defecation. No clothes were available at the time of examination, since the same have been washed. Dr. Kamaljit Singh also testified that no injury was seen at testicle and penis, though tenderness was present in and around anal sphincter with a tear on 6 O' clock position of the size 0.3 x 0.1 cm on mucosal surface of anal opening. Dr. Kamaljit Singh proved his report

(Ex.PW4/A) in this regard and also deposed that after going through the report of the Chemical Examiner (Ex.PW4/B), he gave his opinion that there was no signs suggestive of anal intercourse, though possibility of genital assault could not be ruled out. He proved his opinion (Ex.PW4/C) in his regard. PW5 proved Date of Birth Certificate (Ex.PW5/A) of the minor victim, as per which his date of birth is 14.08.2006. PW6 - ASI Jasbir Singh and PW7- Head Constable - Narinder Singh are formal witnesses, who deposed about keeping the swab parcel in Malkhana and then depositing the same with the Chemical Examiner. PW8 - SI Vijay Kumar is the Investigating Officer, who proved various steps taken during investigation. PW9 - SI Arjun Kumar proved the arrest of the accused.

6. In his statement under Section 313 Cr.P.C., accused controverted the incriminating material appearing against him in the evidence of the prosecution and pleaded false implication. He denied the allegations of subjecting the victim to any sexual assault and alleged that a tutored statement was made by the victim at the instance of the complainant and one Ved Raj. He also alleged that proceedings were initiated against him at the instance of a police official Ved Raj, who was influencing the proceedings.

In defence, accused examined two neighbours, DW1 Sukhdev Raj and DW2 Mamta to support his stand.

7. After analysing the entire evidence on record, the trial Court recorded acquittal of the accused vide its judgment dated 13.11.2019.
8. Assailing the acquittal, it is contended by learned counsel for the complainant (*appellant herein*) that as per Section 29 of the POCSO Act, there is presumption attached to the statement of minor victim, unless the contrary is

proved and that in the present case, the minor victim as well as her mother, i.e. complainant supported the prosecution version, which was further corroborated by the medical evidence and so, there was no reason to discard the prosecution case, simply for delay in lodging the FIR or for some minor discrepancies.

9. This Court has considered submissions of learned counsel for the appellant and has gone through the record.
10. It is no doubt true that minor victim supported the prosecution case and is corroborated by his mother, i.e. complainant, but it has rightly been observed by the trial Court that as far as complainant is concerned, her testimony is based upon hearsay, as she deposed on the basis of whatever was told to her by the victim. Neither the complainant nor the victim child could disclose any date, time or month, when the victim was subjected to sexual abuse for the first time or the last time. Although, it was stated in the complaint that it was told to the complainant by the victim on 27.06.2017 that accused used to call him at his house for the last about 2-3 months and used to subject him to carnal intercourse and that he was feeling pain in his anus for the last 2-3 days, but when the victim was taken for medical examination on 01.07.2017 before PW4 - Dr. Kamaljit Singh, the history narrated by the complainant was that victim was sexually assaulted by her neighbour 16-20 days back by anal and oral route. Neither the victim nor the complainant testified that victim was subjected to sexual assault by oral route. Besides, the complainant as well as the victim stated before the Court that the accused also used to show obscene films to him on his mobile. However, this allegation does not find

mention in the FIR. There is nothing in the investigation that any mobile phone of the accused was recovered containing any such obscene film.

11. Most importantly the medical evidence does not support the statement of the victim or his mother. On the initial medical examination on 01.07.2017, PW4 - Dr. Kamaljit Singh found no injury on testicle or penis of the victim child. Though, he noticed tenderness in and around anal sphincter with a tear on 6 O'clock position of the size 0.3×0.1 cm on the mucosal surface of anal opening, but when the anal swabs were put to chemical examination, it was found that there was no sign suggestive of anal intercourse as has been opined by PW4 - Dr. Kamaljit Singh. Although, PW4 stated that possibility of genital assault could not be ruled out, but at the same time, he disclosed that possibility of tenderness could be because of many reasons including biological and physical. It also turned out in the report of Chemical Examiner that there was no spermatozoa or semen.
12. Apart from above, though as per the prosecution case the complainant used to give medicine to relieve pain of the victim child as and when he was feeling pain, by purchasing it from a chemist, but neither the complainant nor the minor child could disclose either the name of the chemist or the name of the medicine given to the victim, further creating doubt on their testimonies.
13. In the face of aforesaid facts and circumstances, when the testimony of minor victim or the complainant are not trustworthy nor find corroboration from medical evidence, the delay in lodging the FIR also assumes significance, though it may be clarified here itself that delay *ipso facto* is not fatal to the prosecution case.

14. In view of the entire discussion as above, we do not find any reason to interfere in the order of acquittal recorded by the trial Court. As such, finding no merit in the present, the same is hereby dismissed.

(DEEPAK GUPTA)  
JUDGE

(GURVINDER SINGH GILL)  
JUDGE

23.7.2025

sarita

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|----------------------------|----------|
| Whether speaking /reasoned | Yes / No |
| Whether Reportable         | Yes / No |