

Samunder Vs. State of Haryana and Another

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Court : Punjab and Haryana

Decided On : Dec-18-2012

Appellant : Samunder

Respondent : State of Haryana and Another

Judgement :

CRR No.4048 of 2012 (O&M) 1 In the High Court of Punjab and Haryana at Chandigarh CRR No.4048 of 2012 (O&M) Date of decision:18.12.2012 Samunderpetitioner Versus State of Haryana and anotherRespondents CORAM: HON'BLE MRS.JUSTICE SABINA Present: Mr.M.K.Mittal, Advocate, for the petitioner.

**** SABINA, J.

Petitioner had faced trial qua commission of offence punishable under Sections 377 and 506 of the Indian Penal Code, 1860 (IPC for short) in FIR No.49 dated 24.1.2010 registered at police Station Sadar Dadri District Bhiwani.

The trial Court, vide judgment dated 8.10.2011 acquitted the petitioner of the charges framed against him.

Complainant preferred an appeal against the said judgment of acquittal and the Appellate Court vide

JUDGMENT / ORDER

dated 26.10.2012 ordered the conviction and sentence of the petitioner under Sections 377, 506 IPC.

Hence, the present petition by the petitioner.

After hearing learned counsel for the petitioner, I am of the opinion that the present petition deserves to be dismissed.

Prosecution story, in brief, is that on 22.1.2010, complainant found her son Sachin, aged eight years, walking with difficulty.

When the complainant inquired from Sachin as to what was the reason for the same, he started crying and told her that at about CRR No.4048 of 2012 (O&M

2. 30 P.M., while he was playing cricket with other children in the street, he had gone to pick up the ball from the plot of the petitioner.

Petitioner asked Sachin to accompany him towards the bushes and told him that he would pay him ` 50/-.

Sachin refused to do so but was forcibly taken by the petitioner towards the bushes.

Thereafter, petitioner took off the clothes of Sachin and committed anal intercourse with him.

Sachin started crying.

However, petitioner threatened Sachin that in case he narrated the occurrence to anyone, he would be killed.

When the complainant examined the clothes of her son she found that they were blood stained and blood was also oozing out from the anus of her son.

Prosecution, in order to prove its case, examined the complainant as PW-3.

Complainant deposed as per the contents of the FIR.

Sachin was also examined during trial as PW-2 and he duly proved the prosecution story.

PW-4, Dr.

Pradeep Tina, who had medico legally examined Sachin on 24.1.2010, found following injuries on his person:- 1.

On local examination, two lacerated wounds of size 1.5 x 0.5 cm at 5 O' Clock and 2 x 0.5 cm at 7 O' Clock position were present on perianal region reaching up to cutaneo Mucus membrane junction.

Redness and tenderness was present.

2. Congestion of anal mucosa present up to 2 cm from anal verge internally.

3. An anal skin tag was present along with 7 O' clock CRR No.4048 of 2012 (O&M) 3 laceration.

4. On per rectal examination, anal tone was increased, no fresh bleeding was present.

Rectum was full of faecal matter.

Two swabs were taken, one from lacerated wound and second from anal mucosa were sent for chemical examination at Madhuban.

5. On proctoscopy, rectum was full of faecal matter.

No fresh bleeding was present.

Congestion of distal 2 cm of anal mucosa was present.

PW-7, Dr.Vandana Vinayak, had deposed that she had chemically and mycroscopically examined semen stains on the 'payjami' of Schin and found human semen on the same.

PW-8, Dr.Rajeev Kawatra, who had chemically examined the blood stains on the 'payjami' of Sachin, deposed that the said blood stains were of human origin.

The version of the complainant and Sachin was duly corroborated by the medical evidence.

The complainant or Sahin had no ill will against the petitioner to have falsely involved him in this case.

In these circumstances, learned Additional Sessions Judge rightly ordered the conviction and sentence of the petitioner under Sections 377, 506 IPC.

No ground for interference by this Court is made out.

Accordingly, this petition is dismissed.

(SABINA) JUDGE December 18 , 2012 anita

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