

Ghansham Vs. State of Punjab

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Court : Punjab and Haryana

Decided On : May-13-2013

Appellant : Ghansham

Respondent : State of Punjab

Judgement :

CRM-73804-2012 1 in CRA-S-3444-SB-2011 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH CRM-73804-2012 in CRA-S-3444-SB-2011
Date of Decision: May 13, 2013 Ghansham Applicant/Appellant Versus State of Punjab Respondent CORAM: HONBLE MR. JUSTICE NARESH KUMAR SANGHI
Present: Mr. G.P.S. Bal, Advocate, for the applicant-appellant. Mr. Piyush Bansal, DAG, Punjab, for the respondent. NARESH KUMAR SANGHI, J.

1. Prayer in this application is for suspension of sentence of the applicant-appellant, Ghansham, son of Ram Khilawan, resident of L.P. Ka Purwa, Police Station, Subeha, District Hodargarh, Uttar Pradesh, who has been held guilty for the offences punishable under Sections 363, 366 and 376 IPC, and sentenced to undergo the following sentences:- Under Section Sentence (R.I.) Fine (in `) In Default (R.I.) 363, IPC. 5 years 5,000/- 6 months 366, IPC. 7 years 7,000/- 7 months 376, IPC. 10 years 10,000/- 1 year All the substantive sentences were ordered to run concurrently.

2. Learned counsel contends that the matter was reported to the police after about 4 months of the alleged kidnapping of the prosecutrix. He further submits that the

applicant-appellant has suffered incarceration for approximately CRM-73804-2012 2 in CRA-S-3444-SB-2011 three years and two months. He further submits that there are fairly arguable points in the appeal and the same is not likely to be heard and decided in near future.

3. Learned counsel for the State has produced the affidavit of Superintendent, Central Jail, Patiala, showing the period of incarceration suffered by the applicant-appellant, Ghansham, which is taken on record. Learned counsel for the State submits that the prosecutrix was minor at the time of alleged occurrence, therefore, the applicant-appellant is not entitled to the benefit of suspended sentence.

4. I have heard learned counsel for the parties and with their able assistance perused the material available on record.

5. The matter was reported to the police after four months. However, statement of the prosecutrix was recorded after about 11 months of the date of occurrence. The applicant-appellant has suffered incarceration for three years and two months. There are fairly arguable points in the appeal.

6. In view of the totality of the facts and circumstances of the case and taking into consideration the ratio of the judgment delivered by Hon'ble Supreme Court in the case of Bhagwan Rama Shinde Gosai and others v. State of Gujarat, (1994) 4 SCC 421, the present application is allowed. The execution of the remaining substantive sentence of the applicant-appellant, Ghansham, son of Ram Khilawan, resident of L.P. Ka Purwa, Police Station, Subeha, District Hodargarh, Uttar Pradesh, is ordered to be suspended during the pendency of the appeal, subject to his CRM-73804-2012 3 in CRA-S-3444-SB-2011 furnishing bail bonds to the satisfaction of the learned Chief Judicial Magistrate/Duty Magistrate, Amritsar. (NARESH KUMAR SANGHI) May 13, 2013 JUDGE reena

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