



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-32451-2024 in/and
CRM-A-1115-2024
Date of decision: 08.09.2025

State of Punjab

.....Applicant/Appellant

Versus

Gagandeep Singh

.....Respondent

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL
HON'BLE MR. JUSTICE H.S. GREWAL**

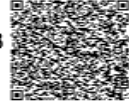
Present : Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J.

1. The present leave to appeal is directed against the judgement dated 22.11.2023 passed by learned Additional Sessions Judge, Fast Track Special Court, Patiala, whereby the respondent-accused, Gagandeep Singh was acquitted of the charges framed against him under Sections 363, 366 and 376 of the IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as 'POCSO Act'), in case FIR No.28 dated 07.02.2022 under Sections 363, 366-A and 376 of the IPC and Section 4 of the POCSO Act. The State of Punjab seeks setting aside of the acquittal and conviction of the respondent.

Prosecution Case

2. The prosecution case, briefly stated, is that on 07.02.2022 Feroze Khan lodged a complaint alleging that his minor daughter, aged



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about 16 years and studying in class 9th at Aggarsain International Public School, Samana had gone to the bank but did not return home. He suspected that the respondent-accused, who had allegedly been harassing her on the pretext of marriage, had enticed her away from his lawful guardianship.

3. On the basis of this complaint, FIR No.28 dated 07.02.2022 was registered under Sections 363, 366-A and 376 of the IPC and Section 4 of the POCSO Act, at Police Station City Samana, District Patiala.

4. About a month later, the victim/prosecutrix was traced at Ferozpur along with the accused. She was restored to her father's custody and a statement under Section 164 of the Cr.P.C. was recorded. In that statement, she alleged that she had resided with the accused for more than a month and had physical relations with him during this period. She was medically examined and forensic analysis confirmed the presence of male DNA matching that of the accused.

5. Upon completion of investigation, chargesheet was filed under Sections 363, 366-A, 376 of the IPC and Section 4 of the POCSO Act.

6. During the course of trial, the prosecution examined 10 witnesses, including the prosecutrix, who deposed as PW-1. She initially supported the prosecution version and affirmed her date of birth as 24.06.2006. PW-2 Feroze Khan corroborated his complaint. PW-5, the Principal of Aggarsen International Public School, produced the admission register, admission form, and a copy of the birth



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certificate of the prosecutor reflecting her date of birth as 24.06.2006. PW-6, Dr.Gurmandeep Kaur, who conducted the medical examination, proved the MLR (Ex.PW6/3), and deposed that the CFSL report (Ex.PW6/5) confirmed that the DNA recovered from the prosecutrix matched that of the respondent. SI Navdeep Kaur (PW-4), the investigating officer, narrated the investigation and the recovery process.

7. The learned Trial Court, however, noticed material infirmities. In her cross-examination, the prosecutrix admitted that she had voluntarily accompanied the accused to marry him and further deposed that she was in fact 19 years of age. She also stated that her father had deliberately reduced her age by three years at the time of her school admission.

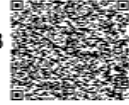
8. The grandmother of the prosecutrix, who appeared as PW-7, turned hostile and did not support the case of the prosecution. Similarly, Feroze Khan (PW-2), in his cross-examination, also admitted to manipulating the age of his daughter in the school records.

9. The medical examination revealed that the hymen was intact and no external or internal injuries were found on the person of the prosecutrix.

10. On the strength of these facts, the learned Trial Court concluded that the prosecution had failed to prove its case beyond reasonable doubt and acquitted the respondent.

Submissions on Behalf of the State

11. Learned State counsel has assailed the acquittal of the



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respondent-accused on the following grounds :

(i) That the impugned judgement is contrary to law and facts, based on conjectures, and liable to be set aside.

(ii) That the school record, duly proved by PW-5, clearly establishes the date of birth of the prosecutrix as 24.06.2006, making her a minor on the date of occurrence. Once minority is established, her consent is immaterial in view of Section 2(d) of the POCSO Act.

(iii) That the learned Trial Court erred in placing reliance on oral assertions of the prosecutrix and her father during cross-examination, overlooking documentary evidence of age, which holds greater evidentiary value.

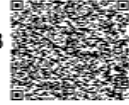
(iv) That the scientific evidence in the form of the CFSL report, corroborated by PW-6, conclusively linked the respondent with the semen stains recovered from the prosecutrix, thereby fixing his culpability.

(v) That the prosecutrix, in her statement under Section 164 of the Cr.P.C. and in her examination-in-chief, consistently alleged sexual relations, which the learned Trial Court failed to give due weightage to.

(vi) That the finding of the learned Trial Court that the age of the prosecutrix was not proved, is unsustainable in the face of admissible documentary evidence.

(vii) That once the prosecutrix is held to be a minor, the conclusion of consensual relationship is wholly irrelevant under the POCSO Act.

(viii) That acquittal has, thus, resulted in grave miscarriage of



justice.

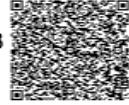
Findings of the Court

12. We have heard the learned State counsel at length and examined the evidence on record. We find no merit in the instant case for the reasons to follow.

13. The entire case of the prosecution hinges on the minority of the prosecutrix. While the school records were produced to show her date of birth as 24.06.2006, the father (PW-2) himself admitted during his cross-examination that the age of his daughter was intentionally reduced at the time of her admission in school. The prosecutrix herself stated in Court that she was 19 years old at the time of occurrence. In the face of these categorical admissions, the reliability of the school record stands seriously undermined. In criminal jurisprudence, where liberty of an individual is at stake, such doubtful evidence cannot be the basis for holding the prosecutrix to be a minor.

14. Furthermore, the prosecutrix in her cross-examination clearly stated that she had gone with the accused voluntarily to marry him. This statement, though contrary to her examination-in-chief, cannot be ignored, especially as it finds corroboration from the own admission of PW-2 Feroze Khan regarding the manipulation of age of the prosecutrix.

15. Furthermore, the medical examination revealed intact hymen and absence of injuries, which weakens the allegation of forcible sexual assault. The CFSL report, though linking DNA of the



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respondent with samples, by itself does not establish presence of consent.

16. The grandmother of the prosecutrix PW-7 turned hostile, while the father PW-2 Feroze Khan admitted to manipulation of the age. These contradictions strike at the root of the case of the prosecution.

17. It is trite that in an appeal against acquittal, interference is permissible only where the Trial Court's view is palpably erroneous, manifestly illegal, or perverse. If two views are possible, the one favouring the accused must prevail. The findings of the learned Trial Court in the present case are based on appreciation of evidence and cannot be said to be perverse or unsustainable in law.

18. In view of the above discussion, we are of the considered opinion that the prosecution has failed to prove the minority of the prosecutrix or to prove the guilt of the respondent-accused beyond reasonable doubt. The learned Trial Court has rightly extended the benefit of doubt to the respondent-accused. No ground is, therefore, made out to interfere with the well-reasoned judgement of acquittal passed by the learned Trial Court.

19. The instant leave to appeal stands dismissed accordingly.

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20. Since main case is dismissed on merits, there is no need to pass separate order on the application seeking condonation of delay of



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140 days in filing the instant leave to appeal, and the same stands dismissed accordingly.

**(MANJARI NEHRU KAUL)
JUDGE**

**(H.S. GREWAL)
JUDGE**

08.09.2025

Vinay

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No