



CRM-A-1784-2019 (O&amp;M)

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

(248)

CRM-A-1784-2019 (O&amp;M)

Date of decision : 08.09.2025

State of Haryana

... Applicant/Appellant

Versus

Rinku and others

... Respondents

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

Present:- Mr. Shiva Khurmi, AAG, Haryana  
for the applicant/appellant.

Mr. Saurabh Dalal, Advocate for the respondents.

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**H.S. Grewal, J.**

1. The present application has been preferred under Section 378(3) Cr.P.C. seeking grant of leave to appeal against the judgment of acquittal dated 17.03.2018 passed by the learned Additional Sessions Judge/Special Judge, Panipat in case FIR No.334 dated 20.06.2016, registered under Sections 34/365/376-D/506 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred as 'POCSO Act'), at Police Station Samalkha Panipat.

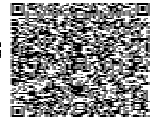
2. The brief facts of the case are that on 20.06.2016, zero FIR dated 20.06.2016, under Sections 365, 376-D, 506 & 34 IPC and Section 4 of POCSO Act, was received from Police Station Sadar Rohtak which was addressed to Chowki Incharge Ghilor Kalan. It was mentioned therein that the



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prosecutrix was a student of Class 12<sup>th</sup> and residing in village Rithal Narwal. On 26.05.2016, she went to the house of her aunt (bua), at Chhaju Garhi Samalkha and on 12.06.2016, the respondents came to the house of her aunt (bua), when no adult family member was present besides her aunt's children, who were sleeping. The respondents came in front of her house and informed her that they had made a phone call asking her to step outside. They had also threatened her by saying that if she did not comply, they had other means. Accordingly, she picked up the phone and the respondents asked her to come outside the house, otherwise, they could harm her when she would go to school. On hearing such call, she went outside the house and the respondents forced her to sit in the vehicle and took her to the nearby fields where they had committed rape upon her. The police was informed on telephone that some altercation with a girl took place in the house of Ajmer in village Rithal Narwal and they were requested to reach at the spot. On receiving information, ASI along with Constable Ranbir reached at the house of the prosecutrix where an application was presented by her which was also signed by her. Her date of birth was stated to be as 15.02.2001. Since the incident took place in village Chhajugarhi, which came in the jurisdiction of Police Station Samalkha, Panipat, therefore, zero FIR was registered on 20.06.2016 at 12:10 a.m., on receiving the rukka. The telephonic information to SHO Samalkha was given where ASI Parminder was on duty, who came in Police Post Ghilorh, Police Station Sadar Rohtak and was handed over the file of Zero FIR dated 20.06.2016, whereupon FIR No. 334 dated 20.06.2016 under the abovesaid



offences was registered in Police Station Samalkha and the investigation was entrusted to PSI Sunita, Police Station Samalkha.

3. During investigation, the statements of the witnesses were recorded and offences under Section 376-D IPC and Section 4 of the POCSO, 2012 was deleted and offence under Section 6 of the POCSO Act, 2012 was added. On 20.06.2016, the prosecutrix committed suicide by hanging in her house in village Rithal Narwal so that the prosecutrix could not be medico-legally examined.

4. The respondents were joined in the investigation on 24.06.2016 and they were medico-legally examined in Government Hospital. They all made their respective disclosure statements. On 24.06.2016, respondents No.1 & 2, namely, Rinku and Amarjeet alias Nitu got recovered their Mobile Phone(s) Marka XOLO Black along with SIM no.9991877587 and Samsung DUOS along with SIM no.9671350701 respectively from which they had made call to the prosecutrix. The same were taken into police possession. On 25.06.2016, respondents No.1 & 2 had demarcated the place of occurrence where they had committed rape upon the prosecutrix in a room. As per disclosure statement made by Amarjeet alias Nitu, a Car No.HR-11F-2724 Swift Desire of white Colour was got recovered from *gher* of his house. During investigation, the original Registration Certificate of the Car and Driving Licence of respondent No.2-Amarjeet was taken into police possession.

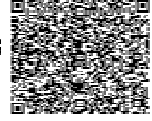
5. Upon completion of investigation, challan was presented against the respondents, whereupon charges for the offence punishable under Sections 363 and 366 read with Section 34 IPC, 376-D IPC, Section 506 read with



Section 34 IPC and Section 6 of the POCSO Act, 2012, had been framed against the respondents to which they pleaded not guilty and claimed trial.

6. Learned State counsel submits that the trial Court had erred in acquitting the respondents despite cogent, reliable and duly corroborated evidence. The statement of material witnesses including PW1-father of the prosecutrix, is sufficient to prove the case of the prosecution beyond reasonable doubt. The prosecution has also examined PW14 ASI Parminder, who supported the contents of the application made by the prosecutrix. There is sufficient medical evidence to prove that the prosecutrix was raped. He, therefore, prays for allowing the appeal and setting aside the impugned judgment of acquittal passed by the learned trial Court.

7. Learned counsel for the respondents, on the other hand, submits that the trial Court had correctly examined the evidence and passed a well-reasoned judgment of acquittal. The prosecution has failed to prove its case beyond reasonable doubt as the present case got registered by father of the prosecutrix due to enmity with the family of the respondents in village as he admitted in his statement as PW1. Actually no such incident was occurred on 12.06.2016 in village Chhaju Garhi with the prosecutrix and PW1 had made a concocted story. In another case (FIR No.337/2016), her father himself stated that his daughter committed suicide due to illness, with no mention of rape or harassment (Ex.D4). This version is more consistent and credible. PW1 had also deposed in his cross-examination that he had not moved any complaint to the police and he did not hand over the documents Ex.P14, Ex.P16, Ex.P17, Ex.P27 to Ex.P30. He also did not identify the handwriting of his daughter on



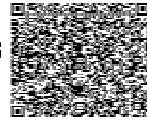
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above said documents. Further, in the FSL report (Ex.PX), semen could not be detected on any of the exhibits. He also submits that no independent witness from the place of alleged recovery of Mobiles, SIM, Registration Certificate and driving licence was joined by the prosecution. There are several contradictions and discrepancies in the statements of the prosecution witnesses on the point of presence of the respondents on the place of occurrence. The alleged place of occurrence is stated to be the field of PW3 Chand, who stated that he had never joined the investigation in this case and he did not know the respondents and denied his statement Ex.P3 made before the police. Moreover, the mother of the prosecutrix, who was examined as PW6, had not supported the case of the prosecution and specifically stated that her daughter committed suicide due to illness. There is no evidence on the file to connect the respondents with the commission of offence. Therefore, it is prayed that the present application seeking leave to appeal be dismissed and the judgment of acquittal be upheld.

8. We have heard learned counsel for the parties and have carefully perused the material available on record.

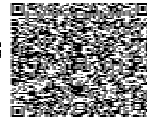
9. In order to prove its case, the prosecution had examined as many as 16 prosecution witnesses i.e. PW1 Father of the prosecutrix, PW2: Fufa of the prosecutrix, PW3 Chand (landowner), PW4 Mahabir (Independent witness), PW5 uncle of the prosecutrix, PW6 mother of the prosecutrix, PW7 Dr. Amit Kumar Dahiya, PW8 Naveen Kumar, Halqa Patwari, PW9 SI Shamsher Singh, SI (Investigating Officer of FIR No.337/2016, Police Station



Sadar Rohtak), PW10 Constable Tilak Raj (Recovery witness), PW11 Constable Virender, PW12 Inspector Sunita (Investigating Officer), PW13 Dr. Om Parkash, PW14 ASI Parminder, PW15 Inspector Narender Singh and PW16 Head Constable Rajbir.

10. PW1, who is father of the deceased/prosecutrix, had deposed that on 20.06.2016, his daughter told him that the respondents had committed bad act with her. At that time his daughter had gone to the house of his sister Rajan Devi in village Garhi Chhaju, District Panipat during summer vacations. He further deposed that his daughter had committed suicide on 20.06.2016 due the respondent-Rinku and two others whose names he did not know, who committed gang rape upon her. He further deposed that the name of two other accused are known to him but he did not remember the same. His daughter had told him that the respondents had taken her on a vehicle and had committed gang rape upon her. His statement was recorded in this case by the police. His daughter had herself informed and called the police. The police had recorded his statement Ex.P1 during investigation of the present case. He had disclosed the contents of the said statement to the police. In the said statement, he had told to the police that on 12.06.2016, the respondents had gone to his village Garhi Chaju at about 10/12:00 pm in the night, where Rinku called his daughter on a phone call by threatening her and took her in the car in the fields and they committed rape upon her.

11. PW2, who is uncle (fufa) of the deceased, had deposed that on 01.06.2016, the prosecutrix came to his house in village Garhi Chhaju. The incident had taken place on 12.06.2016 but he was not aware about the



incident. On 19.06.2016, the prosecutrix had told that Rinku and two other persons came in village Garhi Chhaju on 12.06.2016 in a Car. They threatened her on telephone and took her in the car to the fields and committed rape with her. He also deposed that he could not identify the respondents.

12. PW3 Chand, who was the owner of the fields, had deposed that he had neither joined investigation with the police nor he knew the respondents. During his cross-examination, the contents of the statement Ex.P3 was put to him, however, he denied specifically to have stated the contents thereof to the police. He admitted that although memos Ex.P4, Ex.P5 and Ex.P6 were having his signature but the same were obtained by the police on some blank papers. He denied suggesting that he had compromised the matter with the respondents outside the Court and for that reason he had resiled from his statement.

13. PW4 Mahabir, who is an independent witness, had deposed that he had neither joined the investigation nor having knowledge about the respondents. During his cross-examination, he admitted that although memos Ex.P4, Ex.P5 and Ex.P6 were having his signature but the same were obtained by the police on some blank papers. He had also denied the suggestion that he had compromised the matter with the respondents in order to save them.

14. PW5, who is uncle of the deceased, had deposed that the prosecutrix was his niece. She was ill since long and remained under depression. On 20.06.2016, his niece had committed suicide due to illness. At that time, they were sitting in their house. During his cross-examination, he had denied the suggestion that he had compromised the matter with the respondents to protect them from the legal consequences.

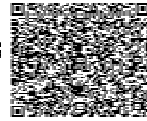


15. PW6, who is mother of the prosecutrix, had stated that her daughter remained ill since long and was under depression. On 20.06.2016, she committed suicide due to illness. At that time, all the family members were present at their house.

16. PW7 Dr. Amit Kumar Dahiya, Medical Officer, CHC Dadlana, in his affidavit Ex.P10, had deposed that on 24.06.2016, he medico-legally examined the respondents and had prepared MLR(s) Ex.P11, Ex.P12 and Ex.P13 respectively and had handed over the same to the Investigating Officer.

17. PW8 Naveen Kumar, Halqa Patwari, had deposed stated that on 13.07.2016, on the request of police, he had visited the field of Krishan Chand and prepared scaled site plan Ex.P14 with correct marginal notes, which bore his signature. He had also produced a copy of Jamabandi (Ex.P15) of the said site plan.

18. PW9 SI Shamsheer Singh, had deposed that on 20.06.2016, he was posted as Sub Inspector/Incharge of Police Post Ghilor, Police Station Sadar Rohtak. On that day, he received telephonic information from Sarpanch of village Rithal Narwal, to the effect that the prosecutrix had died due to hanging. Thereafter, he along with EASI Ramesh and ASI Jitender reached at the disclosed place, where father of the prosecutrix got recorded his statement against the respondents. He sent the *tehrir* through EASI Ramesh Kumar to the Police Station Sadar Rohtak on which FIR No.337 dated 20.06.2016, under Section 306/34 IPC was registered. He had prepared the inquest report of deceased and sent the dead body to the mortuary of PGIMS, Rohtak. After postmortem examination, the concerned doctor had handed over the sealed

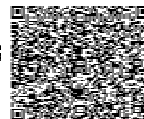


parcels to ASI Jitender and the same were handed over to him which was deposited in Malkhana. On 20.06.2016, he arrested the respondents-Amarjeet and Naveen Kumar. On 21.06.2016, they had voluntarily suffered disclosure statements Ex.P16 and Ex.P17. On 21.06.2016, he arrested respondent No.1-Rinku, who on interrogation, had suffered disclosure statement Ex.P18.

19. PW10 Constable Tilak Raj had deposed that on 13.07.2016, he was working as Computer Operator in Police Station Samalkha. Vide recovery memo Ex.P19, he had provided call details of the mobiles to PSI Sunita. The said call details are Ex.P20.

20. PW11 Constable Virender, in his affidavit Ex.P21, had deposed that MM/ASI Joginder had handed over the case property of the present case to him for depositing to FSL Madhuban and PGIMS Rohtak. The said case property was deposited to FSL Madhuban and PGIMS Rohtak and deposited the receipts. Till the case property remained in his possession, it was not tampered with.

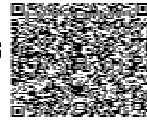
21. PW12 Inspector Sunita (Investigating Officer), had deposed that on 20.06.2016, she was posted as Sub-Inspector in Police Station Samalkha. On that day, ZERO FIR (Ex.P22), alongwith original application Ex.P2 and other documents were received. She had registered FIR No.334 dated 20.06.2016, P.S. Sadar, Rohtak (FIR Ex.P23) and the special report of this case was sent through e-mail to the learned Illaqa Magistrate and Higher Police Officer. On the same day i.e. 20.06.2016, she reached at the bua's house of the prosecutrix/deceased in village Garhi Chaju, District Panipat. Thereafter, she alongwith aunt (bua) of the prosecutrix had reached at village Rithal Narwal in



District Rohtak, in the house of prosecutrix/deceased. She had recorded the statements Ex.P8 and Ex.P9 under Section 161 Cr.P.C. of the witnesses. She had also apprised about the recovery of mobile phones from the respondents and other police proceedings.

22. PW13 Dr. Om Parkash, Medical Officer, Mokhra, Rohtak, had deposed that on 20.06.2016, he alongwith Dr. Natasha and Dr. Dinesh Malik had conducted the post mortem of deceased, who was aged about 16 years. As per their opinion, the cause of death was asphyxia due to *ante-mortem* hanging and its complication which is sufficient to cause death in ordinary course of nature. However, anal and vaginal swab alongwith pubic hair sent for chemical analysis to FSL and uterus for HPE to PGIMS, Rohtak. He deposed that the possibility of sexual assault cannot be ruled out. The copy of the postmortem report had been produced on record as Ex.P28.

23. PW14 ASI Parminder had deposed that on 20.06.2016, he was posted as ASI in Police Station Ghilor, P.S. Sadar, Rohtak and had received a telephonic information to the effect that an altercation took place in the house of Ajmer in village Rithal Narwal with a girl. Upon which, he alongwith Constable Ranbir No.2036 reached at the house of PW1 in village Rithal Narwal where the prosecutrix had moved an application Ex.P2 regarding the offence under Section 365, 506, 376-D, 34 IPC and 4 POCSO Act, 2012. Since the place of occurrence came within the jurisdiction of village Garhi Chaju P.S. Samalkha, District Panipat, therefore, he had made an endorsement Ex.P38 and recommended to register the zero FIR in Police Station Sadar, Rohtak.



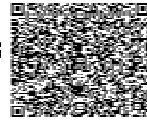
24. PW15 Inspector Narender Singh had deposed that on 13.07.2016, after completion of entire investigation, he had prepared the final report under Section 173 Cr.P.C. against the respondents and sent to the learned Area Magistrate, Panipat.

25. PW16 Head Constable Rajbir had reiterated the police proceedings and had proved on record various documents.

26. After closing the prosecution evidence, the statements of the respondents under Section 313 Cr.P.C. were recorded. The incriminating evidence was presented to the respondents who had denied the allegations and deposed that they had been falsely implicated in the case.

27. In his defence, the respondents had examined DW1 Prem Singh, who had brought the summoned case file titled as 'State Versus Naveen etc.', Sessions Case No.57 of 2016, FIR No.337/2016, under Sections 306 and 34 IPC, Police Station Sadar Rohtak. He had seen the certified copy of Judgment Ex.D1 which had been passed by the Additional Sessions Judge, Rohtak. He had proved on record Ex.D2 to Ex.D5. In addition thereto, they had proved/tendered various documents in his evidence i.e. Ex.D1 i.e. certified copy of Judgment dated 21.08.2017, titled as 'State vs. Naveen etc.' passed by Mrs.Sonika Goel, ASJ, Rohtak, Ex.D2 (certified copy of statement of Anil Kumar), Ex.D3 (certified copy of statement of Sukhbir), Ex.D4 (certified copy of statement father of the deceased), Ex.D5 (certified copy of FSL Report).

28. After appreciating all the material placed before the trial Court, it was observed by the trial Court that the prosecution had failed to prove its case



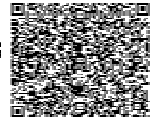
and the accused/respondents, by giving the benefit of doubt, were acquitted of the charges levelled against them.

29. Having heard the rival submissions of learned counsel for the parties, reappraising the ocular as well as documentary evidence on record and evaluating the overall circumstances of the case in their entirety, this Court finds no merit in the present application filed by the State.

30. The prosecution case suffers from serious infirmities at its very foundation. PW-1, the father of the prosecutrix and the main informant, has given inconsistent versions. In another case registered in Rohtak (FIR No.337/2016), certified copy thereof is Ex.D4, he stated that his daughter was unwell and had hanged herself, without any reference to rape or harassment by the respondents. This contradiction is significant as it strikes at the core of the prosecution story. Such inconsistencies in PW-1's statements seriously affect his credibility and reduce the evidentiary value of his testimony.

31. The mother of the prosecutrix (PW-6) and uncle(s) (PW-2 and PW-5) had stated that the deceased had been ill and depressed for some time. She had committed suicide because of that illness/depression. PW-6 specifically denied that her daughter had disclosed any incident of rape to the family that would have caused her suicide. Such independent family testimony directly weakens the claim that the prosecutrix was gang-raped and killed herself out of shame for that reason.

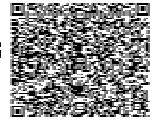
32. PW-3 Chand (owner of the field) and PW-4 Mahabir (independent witness) denied the statements earlier recorded by police. They admitted their



signatures on the memos but explained that those were obtained on blank papers. Their present denial of the contents of Ex.P3 and Ex.P7 is a material weakness in the prosecution's case about place of occurrence and the alleged events. When supposed independent witnesses take back their earlier statements and say their signatures were taken on blank papers, the court cannot rely on those earlier statements unless there is a clear and satisfactory explanation.

33. Admittedly, the prosecution had relied on a document which was alleged to have been written and signed by the prosecutrix (Ex.P2). However, the Investigating Officer (PW-12 Inspector Sunita) did not collect sample of handwriting from the school or home for comparison. No expert opinion was taken and the father's identification of the signature cannot replace proper proof when the signature is directly disputed and there are conflicting statements about it. The failure to prove handwriting is a serious lapse which makes the authenticity of the document doubtful.

34. The post-mortem report (Ex.P28) establishes cause of death as asphyxia due to ante-mortem hanging (suicide). The doctors stated that sexual assault could not be ruled out, but the chemical analysis (FSL report) returned negative for semen on the exhibits sent for analysis (Ex.PX). The prosecutrix committed suicide on the same day when the Zero FIR was recorded and therefore no medico-legal examination of the prosecutrix could take place at that time which limits the scope of medical corroboration. In other words,



medical/forensic evidence does not establish sexual assault by the accused, and indeed the FSL results weaken the prosecution's assertion of rape.

35. Moreover, the prosecutrix did not disclose the alleged incident at the relevant time to the aunt/uncle at the house where she was staying. PW-2 (uncle/fufa) had deposed that he first heard of the matter on 19.06.2016 though the incident had taken place on 12.06.2016. There is no convincing explanation on record as to why the prosecutrix supposedly did not reveal the seriousness of the incident right away to those around her. When the alleged victim stays silent in front of family members who were present and those family members consistently state that she was suffering from illness or depression, it creates doubt about whether the incident actually happened as claimed.

36. Although the call detail records (Ex.P20) were produced but the same did not clearly prove that the respondents had made the threatening call to the prosecutrix. Telephone logs are only circumstantial in nature and need to be supported by trustworthy oral testimony. However, in the present case, the oral evidence regarding the use of the phone and the identity of the caller is neither consistent nor convincing.

37. Undoubtedly, it is true that the Courts give importance to the complainant's statement in sexual assault cases, but the law also requires that the Court must be satisfied that the version told is truthful and inspires confidence. The trial court rightly observed that the inconsistent testimonies of the complainant/family cannot be treated as proof beyond reasonable doubt. The trial court also relied upon settled authorities that while the prosecutrix's



evidence is important, it cannot be accepted blindly in the presence of material improbabilities or contradictions. The record shows multiple material contradictions: between the father's statements in two connected cases; between the father and mother, between statements recorded by police and the present testimony of alleged independent witnesses and between the claimed sequence of events or medical evidence. These contradictions are not minor as they directly affect the core version required to prove kidnapping, rape and intimidation. Where such contradictions remain, the only fair outcome is to give the benefit of reasonable doubt to the accused/respondents.

38. In view of the above, we do not find any illegality or perversity in the judgment of the trial Court acquitting the respondents and the application under Section 378(3) Cr.P.C. seeking leave to appeal is, hereby, dismissed.

39. Pending application, if any, shall stand disposed of accordingly.

**(MANJARI NEHRU KAUL)**  
**JUDGE**

**08.09.2025**  
A.Kaundal

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

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