

(2019) 02 RAJ CK 0221
In the Rajasthan High Court
Case No : Criminal Revision No. 183 Of 2019

Babu Lal And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 25-02-2019

Acts Referred:

Indian Penal Code, 1860 — Section 323, 354, 354B, 451, 452
Protection Of Children from Sexual Offences (POCSO) Act, 2012 — Section 7, 8
Code Of Criminal Procedure, 1973 — Section 161, 164

Citation : (2019) 02 RAJ CK 0221

Hon'ble Judges : Manoj Kumar Garg, J

Bench : Single Bench

Advocate : Pradeep Shah, R.K. Bohra

Final Decision : Dismissed

Judgement

The instant revision petition has been filed by the petitioners against the order dated 05.12.2018 passed by the learned Special Judge, (Protection of Children from Sexual Offences) Cases, Balotra, by which, the learned trial court declined to accept the Final Report and took cognizance against the petitioners for the offence under Sections 451, 323, 354 IPC and Section 7/8 of POCSO Act, 2012.

The brief facts of the case are that a FIR was lodged by one Asi Kumari daughter of Sujana Ram on 06.07.2015, in which, she mentioned that on the date of the incident, her parents were not at home. The accused Babulal, Birbal and Ganga Ram entered her house, caught her hand and forcibly took her in the Jhumpa. They threatened her by showing a knife. They wanted to commit rape upon her. When she shouted, her father and sister came there. The accused beat her father and ran away. On this report, police registered a case under Section 452, 354, 354-B IPC and 7/8 of the POCSO Act and started investigation. The statement under Section 161 Cr.P.C. as well as statement under Section 164 Cr.P.C. were recorded before the police and concerned Magistrate. After investigation, the police submitted a Final Report in this case. Learned trial court took cognizance

against the petitioner and declined to accept the Final Report vide order dated 05.12.2018. Against this order, the present revision petition has been filed by the petitioners.

Learned counsel for the petitioners submits that after thorough investigation, Final Report was filed by the police. There is no question of disbelieving the Final Report. He further submits that the petitioners and the complainant party are the close relatives and there is a dispute regarding agricultural land between the petitioners and father of the prosecutrix. In these circumstances, the order taking cognizance deserves to be set aside.

I have considered the arguments advanced before me and carefully gone through the order impugned as well as relevant documents.

It appears that the prosecutrix is only 16 years of age and she clearly mentioned that all the three accused entered the house and took her in a jhumpa. They wanted to commit rape on her. They also removed her salwar and threatened her by showing a knife. When she shouted, her father and sister came there. The accused beat her father and ran away. These facts were mentioned by the prosecutrix in her statement under Section 161 as well as in court statement under Section 164 Cr.P.C. The Final Report was given by the police merely on the ground that the independent witness has not seen the accused-persons entering the house of the prosecutrix. When the prosecutrix herself gave the statements before the police under Section 161 Cr.P.C. and in court under Section 164 Cr.P.C. alleging commission of offence, there is no question of disbelieving the statement of the prosecutrix at this stage. There is no illegality and perversity in the order impugned passed by the learned trial court.

Accordingly, the revision petition is dismissed. Stay petition stands also dismissed.