

(2019) 07 DEL CK 0128

In the Delhi High Court

Case No : Criminal Revision Petition No. 666 Of 2017

State Gnt Of Delhi

APPELLANT

Vs

Baljeet Singh @ Shankey

RESPONDENT

Date of Decision : 11-07-2019

Acts Referred:

Indian Penal Code, 1860 — Section 354, 354D, 363, 506, 509
Protection Of Children from Sexual Offences (POCSO) Act, 2012 — Section 11, 12

Citation : (2019) 07 DEL CK 0128

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : Meenakshi Dahiya, Rakesh Pal Singh

Final Decision : Dismissed

Judgement

Sanjeev Sachdeva, J

1. State has filed this petition impugning order dated 25.05.2017, whereby, the Trial Court has discharged the respondent of the offence punishable

under Section 12 POCSO.

2. Subject FIR was registered on the complaint of the prosecutrix alleging that the respondent accused was her first cousin and they were also friends.

The prosecutrix at the time of the registration of the FIR was aged 17 years and 4 months. It is alleged that they used to talk over the phone and

respondent had stated that he had recorded some conversation with her, because of which, she stopped talking to him.

3. It is contended that thereafter he tried to contact her and asked her as to why she was not talking to him. Subsequently, he is alleged to have

threatened her that if she did not resume their conversation, he would upload the recordings on some social media.

4. It is alleged that on the date of the incident, which was about 2½ months prior to the registration of the FIR, when she was coming back from school he stopped her mid-way and held her hand and misbehaved with her and asked her as to why she was not talking to him and threatened her and made her sit on his scooty and took her to Rakabganj Gurudwara and when he was trying to put her school bag in the boot (dicky) of the scooty, she used the mobile phone of a passer-by and called her parents and went to the police station with her parents and made a complaint.

5. It is further alleged that thereafter he used to contact her and threatened her that in case she did not resume their friendship, he would upload the recordings on some social media. Subsequently, her father was called to the house of her uncle where there was a fight between them, consequent to which, subject FIR was registered.

6. The Trial Court, in the impugned order, while framing a charge against the respondent under Sections 363/354/354D/506/509 IPC discharged the respondent of the offence under Section 12 POCSO. Trial Court was of the view that the only allegation against the respondent was that he had caught hold of the hand of the victim and forcibly took her to Gurudwara Rakabganj on his scooty.

7. Trial Court found that there were no allegations or any conduct on the part of the respondent which could have indicated any sexual intent on the part of the respondent. Trial Court further found that there was nothing on record to show that the accused, at any point of time, had asked for any sexual favour from the victim or even done any act with any sexual intention. Accordingly, Section 12 was held to be not attracted.

8. Perusal of the record as also the statement given by the prosecutrix does not prima facie show that any act was done by the respondent with any sexual intent. The Trial Court has rightly appreciated the facts of the case and held that there was nothing on record to show that the respondent had done anything with any sexual intention. The allegations against the respondent, who is the first cousin of the victim, showed that he was upset with the victim not talking to him.

9. The substantive offence (Section 11) for which punishment is prescribed under Section 12 POCSO, clearly indicates that the precondition for the section to be attracted is that an act, as enumerated therein, is done with sexual

intent. Clearly in the subject case, from the allegations against the respondent, no such intention even prima facie is coming forward.

10. Accordingly, I am of the view that there is no infirmity in the order of the Trial Court insofar as the findings returned by the Trial Court, that

Section 12 POCSO is not attracted in the subject case, is concerned. It may also be noticed that parties have now settled their disputes and a petition

has also been filed being CrI.M.C.5908/2018 by the parties seeking quashing of the subject FIR insofar as the other offences are concerned.

11. In view of the above, I find no merit in the petition. Petition is, accordingly, dismissed.

12. Order Dasti under signatures of Court Master.