



CRR-109-2020 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(120)

CRR-109-2020 (O & M)
Date of decision:27.08.2025

Parveen Kumar

..... Petitioner(s)

V/s

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. D.S. Nain, Advocate and Mr. Satpal Nain, Advocate,
and Mr. Arnav Sood, Amicus Curiae,
for the petitioner.

Mr. Viney Phogat, DAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The present revision petition has been filed impugning the judgment dated 30.08.2019 passed by the Additional Sessions Judge, Kaithal whereby the appeal filed against the judgment of conviction and order of sentence dated 28/29.04.2016 passed by the Principal Magistrate and Member, Juvenile Justice Board, Kaithal has been dismissed.

2. The FIR in the present case came to be registered on 01.07.2014. The judgment of conviction and order of sentence was passed on 28/29.04.2016 by the Principal Magistrate and Member, Juvenile Justice Board, Kaithal. The Appeal filed against the judgment of conviction and order of sentence was dismissed on 30.08.2019. The instant revision petition was filed on 03.12.2019 and has come up for final hearing now ie. after a period of 10 years from the date of registration of the FIR.



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3. The brief facts of the case are that on 01.07.2014, complainant Pooja wife of Shyam Lal got her statement recorded with ASI Shamsheer Singh and stated that they were residing in Shastri Nagar Kaithal for the last four years. She had one son and one daughter. On 29.06.2014 at around 2:00/2:30 PM, her son/child victim went outside for playing but he did not return at home. At around 4.00 PM, she went to Bala Ji Mandir in search of her son as there was a berry tree and children used to go to pluck berries. A child told her that the child-in-conflict with law had taken her son in the fields behind Lekhraj Rice Mill. She went there and found that the child-in-conflict with law was committing a wrong act with her son and fled on seeing her. She took her son home and at that time her brother-in-law (Jeth) Anil Kumar was at home. Her son/child victim told them that the child-in-conflict with law had committed unnatural intercourse with him. They got her son admitted in Government Hospital Kaithal for treatment. Panchayats were convened but she did not get justice. Legal action was sought.

On the basis of above said allegations, the present case was registered for the commission of offences punishable under Sections 377 of Indian Penal Code, 4 of Protection of Children from Sexual Offences Act, 2012 and 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The investigation was conducted by DSP Aashish Chaudhary. The place of occurrence was inspected. Scene of crime team also visited the place of occurrence. Statements of witnesses were recorded.

On 02.07.2014, child-in-conflict with law was joined in investigation and he got the place of occurrence demarcated. On 03.07.2014,



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statement of child victim was got recorded under Section 164 Cr.P.C. and he was got counselled from Ms Meenakshi Sharma, Advocate. Birth certificate and Caste certificate of child victim was produced by his uncle Anil Kumar were taken into police possession. On 22.07.2014, the case property was got deposited in FSL, Madhuban for analysis. On completion of investigation, inquiry report was presented before Juvenile Justice Board, Kaithal.

4. On finding a prima facie case, notice of accusation under Sections 377 of Indian Penal Code, 4 of Protection of Children from Sexual Offences Act, 2012 and 3(2)(5) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was served child-in-conflict with law.

5. In order to prove its case, prosecution examined following witnesses:

Sr. No.	Prosecution witnesses	Name of the witnesses
1.	PW-1	Dr. Satyapal, Medical Officer.
2.	PW-2	Pooja, complainant.
3.	PW-3	Constable Kuldeep.
4.	PW-4	ASI Harpal.
5.	PW-5	Ramsharan Patwari.
6.	PW-6	Sunil.
7.	PW-6/A	ASI Shamsher Singh (wrongly marked as PW-6 and now to be read as PW-6/A).
8.	PW-7	Child victim
9.	PW-8	Inspector Vikramjeet Singh
10.	PW-9	Anil
11.	PW-10	Dr. Dinesh Kansal, Medical Officer
12.	PW-11	DSP Aashish Chaudhary, Investigating Officer



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6. When the statement of child-in-conflict with law was recorded in term of Section 313 of the Code of Criminal Procedure, to enable him to explain about incriminating evidence produced by prosecution, he denied each and every allegation and pleaded innocence. No defence evidence was led.

7. Based on the evidence led, the accused/petitioner who was a juvenile at that time, came to be convicted and sentenced by the court of the Principal Magistrate, Juvenile Justice Board, Kaithal vide judgment of conviction and order of sentence dated 28/29.04.2016 as under:-

Offence under Section	Sentence
377 IPC and Section 4 of the POCSO Act, 2012	Sentenced to be kept in the Observation Home for a period of three years.

8. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge, Kaithal vide judgment dated 30.08.2019.

9. The aforementioned judgments are under challenge in the present petition.

10. During the pendency of the present revision petition, the sentence of the accused-petitioner was suspended by this Court vide order dated 01.10.2020.

11. The learned counsel for the accused-petitioner and the amicus curiae contend that the Courts below have committed a grave error in believing the discrepant evidence of the prosecution. There is a delay of 02 days in the registration of the FIR. The name of the petitioner (child-in-



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conflict) has not been disclosed in the statement under Section 161 Cr.P.C. of Pooja (complainant) as well as in the counseling report. The PW-7/Child victim has admitted in his cross-examination that he has been tutored by his parents. Human semen detected on the rectal swab as per the FSL report is not proved to be that of the petitioner. They, therefore, contend that the impugned judgments are liable to be set aside and the accused-petitioner be acquitted of the charges framed against him. In addition, they contend that in case this Court was to come to a finding that the prosecution had established its case beyond reasonable doubt, then keeping in view the fact that the occurrence was of the year 2014 and the case had come up for final hearing now after a gap of almost 10 years, the accused/petitioner may be released on probation or his sentence be reduced to the period already undergone.

12. The Counsel for the State on the other hand has placed on record the custody certificate dated 27.08.2025 as per which the accused-petitioner has undergone 01 year 01 month and 20 days out of his substantive sentence. He contends that the offence stands established beyond doubt. The medical evidence is totally in consonance with the ocular account. There is absolutely no reason for the victim to have deposed falsely. Therefore, he prays that the present petition is liable to be dismissed.

13. I have heard the learned counsel for the parties and examined the record.

14. A perusal of the impugned judgments would reveal that the evidence has been discussed in great detail. The medical evidence is in consonance with the ocular account. The prosecution witnesses have



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deposed consistently as to how and in what manner, the occurrence took place. Therefore, finding no merit in the present petition, the same stands dismissed.

15. As regards the imposition of sentence, the petitioner was aged 14 years at the time of commission of the offence and has now attained the majority. Therefore, he cannot be ordered to undergo the sentence imposed upon him in a Special Home. Therefore, in view of the judgments rendered in *Babban Rai and another versus State of Bihar 2007 (13) SCC 88*, *Rajesh Kumar versus State of Haryana 2011(1) RCR (Criminal) 830*, *Sanjay alias Kala versus State of Haryana 2011(2) RCR (Criminal) 899*, *Fateh Singh versus State of Punjab (CRR-1477-2017 decided on 23.01.2025)* and *Sanjiv Kumar @ Kauwa versus State of Punjab (CRR-1089-2009 decided on 30.04.2025)*, the sentence awarded to the petitioner is reduced to the period already undergone by him.

16. The present revision petition stands disposed of in the above terms alongwith the pending applications, if any.

August 27, 2025
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No