

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO(S). 574/2014

SANJAY

APPELLANT(S)

VERSUS

THE STATE OF HARYANA

RESPONDENT(S)

ORDER

The appellant was charged for offences under Sections 366 and 376 of the Indian Penal Code for kidnapping and commission of rape of a minor girl aged 13 years. He had taken the defence of consensual relation due to having love affair with the victim girl, however implicated falsely. The trial court, believed the testimony of Ms. Kulwant Kaur (PW2), Principal of the school, and mother Smt. Gunwanta (PW5), and found that the age of the victim on the date of the incident was 13 years, however, the defence was disbelieved. In view of the said findings and relying upon the testimony of the prosecutrix (PW3) and the Doctor Ms. Asha Goyal (PW4), charge of commission of rape was also found prove to convict and directed him to undergo the

sentence of three years and seven years of R.I. with a fine of Rs. 1,000/- and Rs. 5,000/- respectively.

On assailing the conviction in an appeal by the accused before the High Court, the said findings have been approved along with the sentence, as awarded by the trial court. Being dissatisfied, this appeal has been preferred.

Learned counsel for the appellant has made an endeavour to satisfy that, the findings to prove age of victim girl as minor was based on the certificate and the evidence of the Principal of the school, along with the testimony of the mother of the victim which cannot be relied upon. The Principal certified the Date of Birth of victim girl i.e., 10.05.1986 as informed by the mother while the mother stated that such Date of Birth was given by her elder daughter, therefore such evidence is not sufficient to prove her minor.

We have perused the statement of the Principal, Smt. Kulwant Kaur (PW2) and the mother Gunwanta (PW5), and the certificate to justify the date of birth,

after going through the same, we are satisfied that the Date of Birth of the victim girl as recorded in the school register as 10.05.1986 appears to be genuine, in absence of any effective cross examination or to bring any contrary material on record by the defence. Therefore, nothing is on record to believe that victim was major or more than 16 years of age at the time of commission of the offence and such argument of the appellant is of no substance and of no help to the accused. However, the findings on the point of age recorded by the trial court, affirmed by the High Court does not warrant interference.

Now on allegation of rape, the testimony of victim is ocular, corroborated by medical evidence and the statement of the Doctor Ms. Asha Goyal (PW4), however, we are satisfied that the charge of rape as alleged is rightly proved by the trial court and the High Court based on cogent evidence, committing rape with a girl below the age of 16 years.

Therefore, the findings, as recorded, do not warrant any interference. In view of the forgoing, we see no

reason to interference with the impugned Judgment passed by the High Court convicting and directing the appellant to undergo the sentence.

Accordingly, this appeal is hereby dismissed. The appellant was on bail; however, he shall surrender before the trial court within one month from today, otherwise the trial court shall take steps to send him into custody for serving out the remaining part of jail sentence.

Pending interlocutory application(s), if any, is/are disposed of.

.....**J.**
[J. K. MAHESHWARI]

.....**J.**
[SANJAY KAROL]

New Delhi;
March 20, 2024.

ITEM NO.103

COURT NO.10

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 574/2014

SANJAY

Appellant(s)

VERSUS

THE STATE OF HARYANA

Respondent(s)

Date : 20-03-2024 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE J.K. MAHESHWARI
HON'BLE MR. JUSTICE SANJAY KAROL

For Appellant(s) Mr. Divyesh Pratap Singh, AOR
Ms. Pratiksha Tripathi, Adv.
Mr. Amit Sangwan, Adv.

For Respondent(s) Mr. Vishwa Pal Singh, AOR

Mr. Samar Vijay Singh, AOR
Mr. Keshav Mittal, Adv.
Ms. Sabarni Som, Adv.
Mr. Fateh Singh, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the signed order.

Pending interlocutory application(s), if any, is/are disposed of.

(JAYANT KUMAR ARORA)
ASTT. REGISTRAR-cum-PS

(VIRENDER SINGH)
BRANCH OFFICER

(Signed order is placed on the file)