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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.L.P. 334/2016

SONAM

..... Petitioner

Through Mr. K.G. Seth, Adv.

versus

LAXMAN @ SUMIT & ANR

..... Respondent

Through Mr. Ravi Nayak, APP with SI Harsh
Kumar PS S.J. Enclave.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

03.11.2016

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1. By the present petition, the petitioner seeks leave to appeal against the impugned judgment dated 26th April, 2016 acquitting the respondent No.1 of the charges for offences punishable under Sections 417/376/506 IPC.
2. The learned Trial Court noting the evidence on record held that the claim of the prosecutrix of having physical relationship with respondent No.1 since 2010 was difficult to believe in view of the inconsistent stand taken by her in her different statements. In the complaint, the stand of the prosecutrix was of deceiving her by false promise of marriage and establishing physical relationship without her consent whereas in the statement under Section 164 Cr.P.C. there was no mention of the accused having made any promise of marriage. There was inconsistency in her version with respect to the last episode of intercourse that took place.

Though in her testimony, the prosecutrix claimed that on all occasions the respondent No.1 had physical relationship with her including the unnatural sex, however in her complaint and statement under Section 164 Cr.P.C. nor in the history to the doctor any such fact was mentioned. Though she deposed that on the pretext of showing nude pictures of the prosecutrix she was threatened and coerced into having sexual intercourse, however in her version it is nowhere stated that as and when her nude photographs were taken. Further she claimed that the respondent No.1 never showed her nude pictures but she guessed he was having such pictures with him. Admissions of the prosecutrix in her cross-examination about sending messages demanding money from the respondent No.1 and threatening to implicate him clearly showed that she was not a reliable witness and in the absence of any other evidence to corroborate her version, the respondent No.1 was entitled to be acquitted of the charges.

3. Heard learned counsel for the petitioner and perused statements of the witnesses recorded which have been filed by the petitioner pursuant to the last order.

4. The prosecutrix in her deposition before the Court stated that she knew the respondent No.1 since the year 2009 as they were studying in the same school during which time they had conversation with each other. Gradually the same developed into a friendship and they started talking to each other regularly on the mobile phone. In the year 2010 respondent No.1 promised to marry her when she was in Class IX and had not much understanding about the marriage. Thereafter respondent No.1 established physical relationship with her. Accordingly she had physical relationship with him with her consent. Even after the change of the school, the

respondent No.1 continued to meet her. Though she wanted to sever all the relations he threatened her that he had some nude pictures of the prosecutrix which he would publish. Thus under threat he had forcible sexual relations with her which fact she did not tell to her parents. She gave instances of the houses where the incidents took place. She also deposed that the respondent No.1 took ₹1.50 lakhs at different times from her to meet his demands under the threat that if she failed to pay her money he would publish her photographs. She stated that she had withdrawn the money from ATM of her mother as she used to operate the said card. She also deposed that she refused her internal medical examination as there was no history of recent sexual intercourse.

5. In her cross-examination the prosecutrix admitted her mobile number and that she sent two messages to the respondent No.1 from her mobile phone on the 29th September, 2013 as under:

“1. On dated 29.09.2013, at 04.06.56 pm

Agr tune aaj raat 8 baje tak mera phn or 1 lakh rupe mujhy nhi diye to mai mar jaungi or suicide knote pe srf ye likh k jaungi ki sumit ki wajah se mari hu”

2. On dated 29.09.2013 at 04.10.27 pm

Maine tere gharwalo dekh k ni diye the.. apni kidni bek ya jo marji kar terer pas 8 baje tak ka time h, abi pyar se bol rhi hu par 8 bajte hi apne tarike se lelungi.”

6. In cross-examination the prosecutrix also admitted that on 29th September, 2013 in the evening respondent No.1 along with his sister came to their house after she had sent messages to him and she had telephoned the Police at 100 number where after she along with her mother and the respondent No.1 along with his two sisters went to the Police Station.

Further when she went to the Police Station with her mother she found respondent No.1 along with his two sisters and brother-in-law was already present over there. She admitted that from the ATM the maximum withdrawal she had done was of ₹10,000/- and besides that she was getting ₹1000/- per month as pocket money.

7. As noted above there are improvements in the statement of the prosecutrix in her deposition before the Court from that made before the Police and under Section 164 Cr.P.C. Further the prosecutrix admitted having threatened the respondent No.1 by demanding money as noted above. The respondent No.1 led defence witnesses which proves that after the messages respondent No.1 and his sisters went to the house of the prosecutrix where they were beaten up and they went to make a complaint to the Police; however instead of registering their complaint, complaint of the prosecutrix was registered.

8. It is well settled that conviction for offence under 376 IPC can be based even on the sole testimony of the prosecutrix if she is found to be reliable. In the present case the prosecutrix has been confronted with the material improvements she has made in her version. Further her version that she was sexually exploited at the house of various people was found to be incorrect and those persons were produced in defence who negated these facts. Her own conduct of sending messages to the respondent No.1 demanding money and as a result of not meeting the demand committing suicide by blaming the respondent No.1 is sufficient to hold that the version of the prosecutrix does not inspire confidence.

9. The view taken by the learned Additional Sessions Judge being not perverse but a plausible view based on the evidence on record, this Court

finds no reason to grant leave to appeal.

10. Petition is dismissed.

NOVEMBER 03, 2016

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MUKTA GUPTA, J.