

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No.D-1035-DB of 2014

Date of Decision : April 21, 2015

Santosh BaiAppellant

VERSUS

State of Haryana and othersRespondents

CORAM: HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Rajesh Lamba, Advocate

T.P.S. MANN, J.

The prosecutrix has filed the present appeal for challenging the judgment dated 16.4.2014 passed by the Additional Sessions Judge, Palwal whereby respondents Surjeet Singh and Jarnail Singh were acquitted of the charges under Sections 376-D and 506 IPC.

The case of the prosecution, in nutshell, was that on 1.7.2013 the prosecutrix, alongwith her husband Gurdeep Singh as well as respondents Surjeet Singh and Jarnail Singh, went to take medicine for her husband. While she was sitting on the motorcycle driven by Surjeet Singh, her husband was riding pillion on the other motorcycle driven by Jarnail Singh. On their way back, the motorcycle of Jarnail Singh was left behind when it was stopped at Mahendipur, Surjit Singh told her that her husband would reach there shortly. At about 10.00 p.m., Surjeet Singh stopped his motorcycle on the pretext of urinating and dragged

her into the bushes where he committed rape upon her. After some time, Jarnail Singh also came there. She enquired about her husband. He stated that he had come to take petrol after leaving her husband behind. Jarnail Singh also committed rape upon her. She refused to go with them. Jarnail Singh went to take her husband. Upon the arrival of her husband, the prosecutrix apprised him about the occurrence. She then made statement before the police and, accordingly, FIR was registered against Surjeet Singh and Jarnail Singh.

Having heard learned counsel for the appellant and on going through the impugned judgment of acquittal passed by the trial Court, this Court finds that according to the prosecutrix, she was dragged by Surjeet Singh into the jungle where bushes were growing. At that place, she was raped by Surjeet Singh. After a short span of time, Jarnail Singh also reached there and subjected her to rape. She also stated that she had received injuries on her shoulder when she fell from the motorcycle. However, when the prosecutrix was medico-legally examined, no external injury was found present on her person. There was bleeding per vagina present on the external genitalia. PW3 Dr. Rama Narula deposed that there was no redness, swelling or blackness on the body of the prosecutrix. She further admitted that the bleeding could be due to menstruation. Though the vaginal swabs and clothes of the victim were sent for chemical examination and as per the report Ex.PX, human semen was detected only on the *salwar* of the

prosecutrix yet the prosecutrix was a married lady and for that reason semen could be present on her *salwar*.

Merely because the FIR has been lodged with due promptitude is no ground to hold that the story put forward by the prosecutrix was correct. If no such occurrence, as alleged had taken place, the prosecutrix and her husband could appear before the police at any time and lodge the FIR against the accused.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal passed by the trial Court.

The appeal is without any merit and, therefore, dismissed.

(T.P.S. MANN)
JUDGE

(MAHAVIR S. CHAUHAN)
JUDGE

April 21, 2015
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