

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No.D-1127-DB of 2014
Date of Decision : February 16, 2015

Bitana

.....Appellant

VERSUS

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE DARSHAN SINGH

Present : Mr. Sachin Mittal, Advocate.

T.P.S. MANN, J.

The prosecutrix has filed the present appeal against the judgment dated 16.12.2013 passed by the Additional Sessions Judge, Gurgaon whereby respondent No.2-Ramesh, hereinafter referred to as 'the accused', was acquitted of the charges under Sections 376 and 506 IPC.

The case of the prosecutrix, while making complaint to the police, was that she was a labourer and had come in contact with the accused about nine years back, who brought her to his village from Delhi on the pretext of marrying her and had been maintaining sexual relations with her ever since then. She was thrown out of the house by the accused on 4.12.2012 and threatened that if she disclosed about the incident, she would be done to death. She further stated that in order to cause her miscarriage, he would make her eat capsules.

Having heard learned counsel for the appellant and going through the impugned judgment, this Court finds that despite

being married to someone else, the appellant had lived with the accused for a period of about nine years. All this while she did not make any complaint that she was being duped by him on the pretext of marrying her. It is her own case that the accused was also a married person. Therefore, the physical relationship between the appellant and the accused was an act of consent and not by way of any mis-representation. This fact assumes significance as the appellant claimed that she married the accused in a temple and, later on, she had filed a petition under the provisions of the Domestic Violence Act against him. Therefore, the making of physical relationship by the accused with the appellant cannot be termed as a rape.

In view of the above, no fault can be found with the impugned judgment passed by the trial Court whereby the accused respondent stands acquitted of the charges against him.

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

(T.P.S. MANN)
JUDGE

(DARSHAN SINGH)
JUDGE

February 16, 2015
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