

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No.D-1145-DB of 2015

Date of Decision : September 10, 2015

Gayatri Devi

....Appellant

VERSUS

State of Haryana and another

...Respondents

CORAM : HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE GURMIT RAM

Present : Mr. Vineet Kaushal, Advocate
for the appellant.

T.P.S. MANN, J.

The prosecutrix has filed the present appeal for challenging the judgment dated 23.3.2015 passed by the Additional Sessions Judge, Special Court, Sonipat whereby accused Trilok, respondent No.2 herein, stands acquitted of the charges under Sections 376(2), 376 read with Section 511, 323 and 506 IPC.

Briefly stated, the prosecution case is that the accused used to visit the house of the prosecutrix for the last 3/4 years before she submitted written complaint against him. He started mis-behaving and quarrelling with the prosecutrix. He even ousted her husband from her house after threatening him. He used to rape her and whenever she objected he would beat her and also tried to strangulate

her with a Chunni. He even threatened to kill her husband and her son. About two days back, he entered her house and tried to tear her clothes in order to outrage her modesty. When she objected, he threatened to kill all of them. He even wanted to get transferred her house in his name. He administered some stupefying substance to her and, thereafter, had physical relations with her. He wanted to make similar relations with her daughters also. Accordingly, the prosecutrix submitted application to the police praying therein for taking action against the accused.

After hearing learned counsel for the appellant and on going through the impugned judgment of acquittal, it may be noticed that Nisha and Yogita, the two daughters of the appellant, had appeared before the trial Court as DW1 and DW2, respectively, and testified that their mother used to call the accused whenever she faced any problem. The accused had also sustained injuries in their house at the hands of other persons when he tried to save them. They also stated that the accused was not having illicit relations with their mother. Rather, he used to visit their house as a friend. DW1 Nisha also stated that she herself wanted to marry the accused but her parents were not happy as the accused belonged to a different caste. Her mother wanted to marry her at some other place. Nisha had apprised her mother about her desire to get married with the accused. However, her mother became annoyed and threatened to get her killed. Thereafter, Nisha had left her house on 7.7.2014 and married the accused on 9.7.2014. Her parents threatened to get the accused killed once he came out of the jail. She also testified

that she had sought protection from the Court of Sessions Judge, Sonipat on 14.7.2014. However, her mother had got registered a false case against the accused. Similar statement was made by DW2 Yogita. The aforesaid stand taken by the two daughters of the appellant was supported by various documents placed on the record i.e. Ex.D2, Ex.D3 and Ex.D7 to Ex.D11. Similarly, from documents Ex.D4, Ex.D5 and Ex.D6 it is made out that the appellant had got registered a case under Sections 323 and 506 IPC vide FIR No.329 dated 7.10.2011 against Sandeep and Mandeep and in that case the present accused had been cited as a witness. Similarly, FIR No.343 dated 17.10.2011 under Section 323 IPC against one Hari Om was registered at the instance of the present accused, namely, Trilok and in the said case, the appellant and her husband were cited as witnesses. Even Ashok Kumar, husband of the appellant, lodged FIR No.70 dated 9.3.2013 against the accused as well as the prosecutrix alleging therein that for the last one year, the accused was maintaining physical relations with his wife and daughter and both of them used to extract money from him by extending threats. Apparently, the appellant, i.e. the prosecutrix, had been maintaining physical relations with the accused for the last 2/3 years but it cannot be said that the accused had committed rape upon her at any point of time. It is also established on the record that no hue and cry was shown to have been made by the prosecutrix at the time when the accused had allegedly committed rape upon her on different occasions. Her explanation that the accused had threatened to kill her husband and son in case she reported the matter to the police cannot be accepted. As

regards the giving of beatings by the accused, PW8 Dr. Krishna Tehlan, who had medico-legally examined the prosecutrix on 8.7.2014, testified that there were no marks of external injury seen over any part of her body, including her private parts.

For the aforementioned reasons, no fault can be found with the impugned judgment of acquittal passed by the trial Court.

The appeal is devoid of any merit and, therefore, dismissed.

(T.P.S. MANN)
JUDGE

September 10, 2015
satish

(GURMIT RAM)
JUDGE