

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Appeal No. D-1458-DB of 2014
Date of Decision : February 05, 2015

Pinki Rani

....Appellant

Versus

State of Haryana and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE DR SHEKHER DHAWAN

Present : Mr. Jagdish Manchanda, Advocate
for the appellant.

T.P.S. MANN, J.

The prosecutrix has filed the present appeal for challenging the judgment dated 27.5.2014 passed by the Additional Sessions Judge, Kaithal whereby respondent No.2-accused Aman alias Amarjeet Singh was acquitted of the charges under Sections 376 (2) (n), 376, 452 and 506 IPC.

The case of the prosecution is that the prosecutrix, aged 29 years, was a housewife and mother of two children. Her husband was a drunkard, who had already left her. She had been residing with her two children and finding it difficult to run the household. The accused, who resided opposite to her house expressed his wish to help her and started giving money to her to run the household. One day, he told her

that he would get her divorced from her husband and then marry her. On the pretext of marriage, he even started exploiting her sexually. All this went on from the year 2009 to year 2013. In the year 2013, the accused got married to some other girl. When the prosecutrix learnt about the same, she was pressurized by him to enter into a compromise or else she and her children would be killed. On 15.9.2013 at about 1.00 PM when she was present at her rented beautician shop, the accused came there and raped her. He also threatened her with death if she disclosed about the same to anyone. However, she apprised her sister and brother-in-law after reaching home. She then made a statement before Inspector Raj Singh on the basis of which FIR No.116 dated 2.10.2013 was registered under Sections 376, 452 and 506 IPC at the Police Station, Dhand.

During the investigation, the prosecutrix was medically examined, the statements of the witnesses were recorded, accused was arrested and also medically examined. Upon completion of investigation and presentation of challan, the case was committed to the Court of Sessions where aforementioned charges were framed against the accused, to which he pleaded not guilty and claimed trial.

In support of its case, the prosecution examined 9 witnesses, including the prosecutrix and her brother-in-law. When examined under Section 313 Cr.P.C the accused totally denied the prosecution allegations and pleaded false implication. In defence he examined two witnesses.

Learned trial Court, after perusing the case file and hearing learned counsel for the parties while extending the benefit of doubt to the accused, acquitted him of the various offences for which he had been charged. Hence, the present appeal.

Having heard learned counsel for the appellant and on going through the impugned judgment, we find that at the time of occurrence, the prosecutrix was a mature lady of 29 years of age, having already got married and given birth to two children. Thus, there is no question of the accused misguiding or misrepresenting the prosecutrix to submit to sexual intercourse on the promise that he would enable her to obtain divorce from her husband and, thereafter, marry her. Even in her statement made under Section 164 Cr.P.C, the prosecutrix had stated that the accused would visit her after every two/three days and have sex with her.

As regards the specific instance of 15.9.2013 which had taken place at about 1.00 PM in the beauty parlour shop run by the prosecutrix, suffice it to state that by that time the accused had already been married to another girl, who was suffering from fever on that day and for that reason, the prosecutrix submitted herself to have sex with the accused, especially, when she had been doing so for the last four years. During the enquiry conducted by DW-2 Sh. Surender Singh Booria, Deputy Superintendent of Police, the prosecutrix had requested for granting three/four days time to her for compromising the matter. Though the prosecutrix admitted her signatures over the compromise

mark 'DB', yet she and her brother-in-law tried to wriggle out of it by stating that the accused had obtained the signatures of the prosecutrix after threatening her by coming to the shop with two/three other persons. However, no complaint was made by the prosecutrix in that regard. Even the stamp paper upon which the affidavit mark 'DA' was scribed had been purchased by the prosecutrix herself. Similarly, there is another compromise mark 'DC' that was reached at the Panchayat level, which compromise bears the signatures of the accused and the prosecutrix, besides other respectable persons. After effecting the compromise with the accused, an agreement to sell was entered into between the prosecutrix and father of the accused. It is true that civil litigation ensued thereafter wherein also the prosecutrix stated that the father of the accused had obtained full and final sale consideration from her and only thereafter that the agreement was executed.

There is un-explained delay of seventeen days in lodging of the FIR. The occurrence had taken place on 15.9.2013 whereas the FIR was lodged on 2.10.2013. Though the prosecutrix stated that on the next day of the occurrence, she had visited the office of the Deputy Superintendent of Police, whom she could not meet as he was away to Chandigarh, her brother-in-law testified that he, alongwith the prosecutrix had gone to the office of Deputy Superintendent of Police, on 15.9.2013 itself. Moreover, the prosecutrix claimed that she had moved a written complaint to the Station House Officer but the said document is not on the file.

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

Resultantly, the appeal is without any merit and, therefore, dismissed.

(T.P.S. MANN)
JUDGE

(SHEKHER DHAWAN)
JUDGE

February 05, 2015
pds.