

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No. D-1745-DB of 2014

Date of Decision : July 14, 2015

Bali Sahoo

.....Appellant

VERSUS

State of Haryana and another

.....Respondents

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

Present : Mr. Aman Dhir, Advocate.

T.P.S. MANN, J.

The prosecutrix has filed the present appeal against the judgment dated 26.9.2013 passed by the Additional Sessions Judge, Gurgaon whereby respondent No.2-Ramesh, hereinafter referred to as 'the accused', had been acquitted of the charge under Section 376 IPC.

The case of the prosecution is that the prosecutrix, aged forty years and hailing from Orissa, lived in a rented house in Gurgaon where she had come about eight years back for doing labour work. The accused, who also hailed from her village was already living in the same very house on rent. He was working in a thread company. The prosecutrix developed friendship with him and started living in the same house. The friendship blossomed and, as a result, intimacy developed between them. The accused assured to marry her and on his assurance, the prosecutrix had physical relations with him. Many a time, she had asked him to marry her but he would put off the matter on one pretext or the other. About eight months back, the accused had sexual relations with her and when she asked him to marry her, he started

avoiding and even started living separately. She had been duped by the accused, who on the pretext of marriage had maintained sexual relations with her.

Having heard learned counsel for the appellant and on going through the record, this Court finds that the prosecutrix was forty years old female and had lived with the accused for eight years. Being a mature lady, who had come all the way from Orissa and worked as a labourer in Gurgaon, it is highly improbable that she was duped into maintaining relationship with the accused on the pretext of marriage. The prosecutrix and the accused had been living together for eight long years and during the said period they had physical relations which can be termed as purely consensual and not on account of any assurance, whatsoever, given by the accused that he would marry the prosecutrix. Position would have been different if the prosecutrix was a young girl and not mature enough to understand as to what she was getting into while having physical relations with the accused. There is no denial of the fact that the prosecutrix was forty years of age and had lived with the accused for a sufficiently long period, i.e. eight years. Under these circumstances, it cannot be said that the accused had committed the offence under Section 376 IPC.

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

**(T.P.S. MANN)
JUDGE**

**(MAHAVIR S. CHAUHAN)
JUDGE**

July 14, 2015

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