

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRA-D No.241-DB of 2015

Date of decision:19.3.2015

Meenakshi

....Appellant

VERSUS

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MR. JUSTICE GURMIT RAM

Present: Mr. Ashit Malik, Advocate for the appellant.

HEMANT GUPTA, J.(Oral)

The present appeal is directed against an order passed by learned Additional Sessions Judge, Rohtak on 19.01.2015 whereby the accused were acquitted of the offences punishable under Section 376, 366, 506 and 120-B of Indian Penal Code (for short 'IPC').

Learned trial Court has found that in fact the prosecutrix had married Sanjay son of Prem Singh (respondent No.2 herein) on 24.02.2010. DW1 Som Nath Miglani, Assistant, Municipal Corporation, Rohtak has produced marriage certificate Ex.D3 and also copy of the application Ex.D28 submitted by the prosecutrix and Sanjay for their marriage along with their affidavits Ex.D27 and Ex.D34. Ex.D35 and Ex.D36 are the affidavits of witnesses namely Praveen and Manveer. Ex.D37 is entry of marriage whereas Ex.D3, D28 and D37 are photographs of the couple. Photograph Ex.D28 is self-attested form by the prosecutrix and Sanjay. Even DW2 Indermani Shastri has also deposed that marriage was solemnized at Arya Samaj Mandir on 10.02.2010 and that he performed the marriage by chanting mantras. Marriage certificate Ex.D2 was issued by him.

Ex.D38 and D39 are the affidavits of the parties i.e. prosecutrix and

Sanjay and Ex.D40 is the matriculation certificate of the prosecutrix whereas Ex.D41 is the ration card submitted by her. Ex.D40 and Ex.D41 are the documents attested by her by affixing thumb impressions and signatures. DW3 Ashwani Kumar, Advocate, deposed that he was engaged for the purposes of solemnization of marriage and prepared Ex.D1, an affidavit of the prosecutrix. He accompanied the prosecutrix and Sanjay for their marriage at Arya Samaj Mandir.

Learned trial Court has found that the stand of the prosecutrix in the FIR was that she was forcibly married is not made out in the face of voluminous documentary evidence. We find that the evidence of different dates and the documents executed belie the stand of forcible marriage.

Learned trial Court rightly recorded the following findings:-

“29. At same, there is also sufficient evidence on the record that on 10.02.2010, the prosecutrix and accused Sanjay son of Prem Singh got solemnized their marriage in Arya Samaj Mandir at Delhi and on 24.02.2010, they also got registered their marriage. Earlier to the registration of present case, accused Sanjay had filed his petition seeking restitution of conjugal rights. Hence, the scale tilts toward defence side whereby a plea is taken that as the prosecutrix was not willing to join the company of accused Sanjay and thus, to cause pressure, their side has been implicated in the case falsely by the prosecutrix beside seeking nullity of marriage under Section 12 of the Hindu Marriage Act. High headedness of the prosecutrix also appears from her conduct as during her evidence also she has deposed that otherwise also she does not recognize her marriage with accused Sanjay Saini. Hence, it explicit that by getting registered present false case, she used a clever device to trigger accused persons in the dock. Consequently projected story of 06.06.2010 to set her case in motion is also not appearing to the judicial mind.

30. In view of above made observations and discussion, testimony of the prosecutrix in preference of other evidence devastating her stand is not reliable at all to prove the fact that on 10.02.2010, accused Surender and Sanjay son of Jai Bhagwan along with main accused Sanjay son of Prem Singh had abducted her to Delhi or on the way, they subjected her with gang rape or that after reaching Delhi, they in conspiracy of parents and sisters of accused Sanjay got her married with him forcibly. On other hand, there is sufficient evidence on the record to prove rather she herself accompanied accused Sanjay son of Prem Singh with an Advocate and one other person namely Om Parkash for going Delhi to get their marriage. Further, after performance of their marriage in Arya Samaz Vivah Mandir, Delhi, they also got registered same in Tehsil Office, Rohtak and to that effect there is registration certificate Ex.D3 dated 24.02.2010. Despite the fact ignoring all norms of fair investigation and documentation, the investigation was concluded one sidedly without taking care that ultimately it would effect liberty of accused persons. Simple receiving of any complaint does not mean that accused person/s are to be challaned necessarily. Such like practice does not only curtail liberty of innocent persons but also waste precious time of the Courts as well beside causing unnecessary burden on the exchequer of the State. Hence, it is proper for the police agency to leave their casual attitude and to investigate the matter brought before them fairly without taking into consideration nature of alleged offence how so ever it may be grave. Otherwise, their nature of work shall not be more than cooking up complainant's case which is not the intention of Legislature."

In view of the voluminous evidence of voluntary act of the prosecutrix in marrying Sanjay, we find that there is no error in the order passed by learned trial Court which may warrant interference in the present appeal against acquittal.

The appeal is dismissed.

(HEMANT GUPTA)
JUDGE

MARCH 19, 2015
‘D. Gulati’

(GURMIT RAM)
JUDGE