

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

**Criminal Appeal D-348-DB of 2015
Date of Decision: December 4, 2015**

Laxmi	Versus	Appellant
Suraj and others		 Respondents

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

Present : Mr. Deepinder Brar, Advocate for
Mr. Gautam Dutt, Advocate
for the appellant.

T.P.S.MANN, J.

The prosecutrix has filed the present appeal for challenging the judgment dated 16.1.2015 passed by the learned Additional Sessions Judge, Faridabad, whereby the two accused, namely, Suraj and his sister Santosh, respondents No. 1 and 2 herein stand acquitted of the charges under Sections 366, 376, 120-B and 201 IPC.

As per the case of the prosecution, the prosecutrix got married on 7.5.2004 and from the said wedlock two daughters were born. She is running a matching centre of clothes thread in her house. In front of her house, there is tailoring shop of accused-Suraj. On 6.6.2013, her husband went to Shimla. On 7.6.2013 at about 2.30 p.m., when the prosecutrix was all alone in her house, accused Suraj and his sister Santosh came to her

house. Suraj was having a bottle of pepsi drink in his hand and he offered the drink to her. She declined to take the drink. However, on persistent request of the accused, she brought three glasses from the kitchen. When she returned after ten minutes, she saw that accused Suraj and Santosh had already poured pepsi drink in her glass and on being offered, she drank it. Thereafter, she became unconscious. When she regained consciousness, she found accused-Suraj committing bad act with her. She found it difficult to save herself as she was under the effect of intoxication. Due to shame, she did not apprise about the incident to anyone. On 8.6.2013, accused-Suraj again came to her house and started misbehaving with her. When she objected, Suraj became angry and hurled abuses at her. He told her that he had made video film of the wrong act which he had committed with her and threatened to circulate the said video film in society if she did not accompany him. In this manner, accused-Suraj indulged in physical relations with her several times. When she disclosed about the repeated incidents to her husband, he scolded Suraj in the month of December, 2013, which resulted in a quarrel between them. She then made statement before the police, on the basis of which, FIR No. 172 dated 10.6.2014 under Sections 376, 328, 354-D, 120-B and 201 IPC was registered against the two accused at Police Station Bhupani, Faridabad.

Having heard learned counsel for the appellant and on going through the impugned judgment, this Court finds that though accused Suraj and Santosh had visited the house of the appellant on 7.6.2013 and after making her consume pepsi laced with some intoxicant, as a result of which, she became unconscious, accused-Suraj raped her and even on the following day, i.e. 8.6.2013, accused-Suraj repeatedly raped her after threatening her that he would circulate the video film prepared by him and it was only in the month of December 2013 that she disclosed about the incident to her husband. Things do not rest there. No report was lodged with the police either by the appellant or her husband for a period about six months. It was only on 10.6.2014 that on the basis of statement made by the appellant, that the FIR came to be registered. There is no satisfactory explanation about the delay in lodging of the FIR. This assumes significance in view of the material brought on record by the defence that there was a dispute between the prosecutrix and her husband on the one hand and accused-Suraj on the other, which led to a fight taking place during which accused-Santosh, sister of accused Suraj, received injuries for which she was medically examined on 14.5.2014. Even PW8 lady Sub-Inspector Santosh testified during her cross-examination that during investigation of the case it had come to her notice that complainant party had

given beatings to the accused and the accused moving an application before the Senior Police Officers.

In view of above, no case is made out for any interference in the impugned judgment of acquittal. The appeal is devoid of merit and, accordingly, dismissed.

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

December 4, 2015
amit rana

**(GURMIT RAM)
JUDGE**