

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

Crl. Appeal D-487-DB of 2015
Date of Decision : May 25, 2015

Daljit Kaur

.....Appellant

VERSUS

State of Punjab and another

.....Respondents

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

Present : Mr. H.S.Baath, Advocate
for the appellant.

T.P.S. MANN, J.

The prosecutrix has filed the present appeal against the judgment 2.2.2015 passed by the learned Sessions Judge, Rupnagar acquitting respondent-Ranjit Singh, here-in-after referred to as '**the accused**', of the charges under Sections 376 IPC and Section 3(1)(XII) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, here-in-after referred to as '**the Act**'.

The case of the prosecution, in nutshell, is that the prosecutrix is a married woman and doing household work. Accused-Ranjit Singh and his brother Daljit Singh were the sons of real Massi of her husband and, thus, related to her as Jeths. Daljit Singh was settled in Holland. Accused-Ranjit Singh and his daughter Rupinder Kaur were doing the business of sending the

people abroad. In the year 2008, the prosecutrix got married to Jagtar Singh against the wishes of her parents as it was inter-caste marriage. Accused-Ranjit Singh and Daljit Singh visited her village in the year 2009 and assured her that they would send her and her husband to a foreign country. After some time Daljit Singh went back to Holland. Accused-Ranjit Singh, his daughter Rupinder Kaur and brother Daljit Singh demanded a sum of Rs.28,00,000/- from the prosecutrix and her husband for sending them to Holland. They assured them that they would also have a share in the show room. As the prosecutrix and her husband were poor people, they could not arrange such a huge amount. Both the accused got transferred one acre of land belonging to the father-in-law of the prosecutrix with the assurance that they would be settled abroad. In the meantime, accused-Ranjit Singh started keeping evil eye on the prosecutrix. In the absence of her husband, he developed physical relations with her. When she opposed him, he threatened her that their file for sending abroad will be closed and the money paid in advance misappropriated. Due to the same, the prosecutrix could not oppose the accused, who continued to have physical relations with her. Daljit Singh also asked the prosecutrix to have physical relations with him. He threatened her that in case she opposed him, they would not be taken to a foreign country. Rather, he would disclose to her husband regarding her relations with his brother Ranjit Singh.

Daljit Singh also raped her. Accused-Ranjit Singh got transferred land of her father-in-law by executing registered sale-deed. The prosecutrix and her husband kept on waiting that the accused would prepare their papers for sending them abroad. Ultimately, in the year 2012, the accused refused to send them abroad. The prosecutrix demanded the return of the registered sale-deeds vide which their land was transferred in favour of the accused. She filed a complaint before the Senior Superintendent of Police, Fatehgarh Sahib, on the basis of which FIR No. 3 dated 17.1.2013 was registered against accused-Ranjit Singh under Section 420 IPC. In the said complaint, the prosecutrix did not mention about commission of rape as she was told that the incident of rape took place in village Mughal Majri, District Ropar. Accordingly, she filed the complaint at Ropar which was marked to DSP (Rural) for investigation. The statements of the parties were recorded. Ultimately, FIR No. 29 dated 15.4.2013 under Section 376 IPC and Section 3 (1)(XII) of the Act was registered at Police Station Singh Bhagwantpur. Upon completion of investigation, accused-Ranjit Singh was challaned.

Subsequent to the commitment of the case and framing of the charges against the accused of the aforementioned offences, the prosecution examined eleven witnesses in support of its case including the prosecutrix herself as PW1 and her husband as PW5.

When examined under Section 313 Cr.P.C., the accused denied the case of the prosecution in toto and pleaded innocence. In defence, he examined his daughter Rupinder Kaur as DW1.

After hearing learned counsel for the parties and on going through the evidence brought on record, the trial Court came to the conclusion that the prosecution had miserably failed to bring home the guilt of the accused for the aforementioned offences. Accordingly, the accused was acquitted of the charges framed against him.

This Court has heard learned counsel for the appellant and perused the impugned judgment passed by the trial Court.

According to the prosecutrix, as and when members of her family would not be present in the house, the accused would commit rape upon her. He was threatening her that if she disclosed about the said fact to any one, her file for sending abroad would be closed and earnest money given to him would be forfeited. On account of the said fact, the prosecutrix remained silent and the accused continued to commit rape upon her for a period spreading over three years. However, it is the prosecution case itself that the accused was none else but the first cousin of her husband. Further, the prosecutrix was 32 years of age while the accused 47 years of age. The latter had a grown up daughter aged about 25/26 years and son about 23 years' old.

Said daughter of the accused stepped into the witness box as DW1 and testified that she alongwith her parents and grandmother, who was about 78 years of age, lived in the house. Under these circumstances, it is difficult to hold that the accused would have indulged in committing rape upon the prosecutrix.

In her testimony before the trial Court, the prosecutrix admitted that she was earlier married to Sohan Singh but the said marriage ended in a Panchayati divorce. However, as per certified copy of the judgment and decree brought on record by the accused, said Sohan Singh had obtained *ex parte* divorce on 16.7.2008. Subsequently, the prosecutrix was engaged with Baljit Singh son of Nirmal Singh, resident of Fatehgarh Sahib but the engagement was broken. She then married Jagtar Singh which was an inter-caste marriage and against the wishes of her parents. The prosecutrix appears to be a mature and worldly wise lady. Despite the same, she did not raise her voice till she submitted complaint dated 31.1.2013. In the said complaint, she did not level allegations of commission of rape against accused-Ranjit Singh or his brother Daljit Singh and, accordingly, FIR No. 3 dated 17.1.2013 under Section 420 IPC was registered against the accused. According to the prosecutrix, the accused had been having physical relations from the year 2009 but she did not raise her voice till the time when she submitted complaint Ex. PA on 31.1.2013. It is also the case of the prosecution that she was

turned out of the house on 7.2.2012 and, thereafter, she filed complaint dated 7.5.2012 Ex. DA before the Senior Superintendent of Police, Fatehgarh Sahib. In the said complaint also there were no allegations of commission of rape against accused-Ranjit Singh or his brother Daljit Singh. During the enquiry of the said complaint, the statement of the prosecutrix was recorded by the DSP, which is available on the record as Ex.DB. Even in the said statement, the prosecutrix did not level allegations of commission of rape.

Prior to the complaint Ex. PA dated 31.1.2013, civil and criminal litigation had started between the accused and the family of the prosecutrix. Sale-deed dated 20.7.2009 had been executed by Kesar Singh, father-in-law of the prosecutrix, regarding 8 acres of land in favour of accused-Ranjit Singh. This fact was not denied by the prosecutrix during her cross-examination as PW1. She only stated that the land purchased by the accused was acquired and she had filed application before the Deputy Commissioner not to release the amount in favour of the accused. Under these circumstances, it cannot be said that the prosecution had been successful in establishing the guilt of the accused of the offence under Section 376 IPC.

As regards the offence under Section 3 of the Act, suffice it to state that though the prosecutrix testified that the accused had proclaimed that she belonged to a scheduled caste

and, therefore, he would disclose about her relationship to her husband and her in-laws and then she would be thrown out of the matrimonial home but the said fact was not stated by her at an initial stage. Apparently, she had improved upon her version when she stepped into the witness box as PW1. Therefore, the offence under Section 3 of the Act is also not made out.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal.

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

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

May 25, 2015
ajay-1

**(MAHAVIR S. CHAUHAN)
JUDGE**