

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

Crl. Appeal D-558-DB of 2015
Date of Decision : May 26, 2015

Jiwan Lata

.....Appellant

VERSUS

Gulshan Kumar @ Guchu and another

.....Respondents

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

Present : Mr. Y.S.Turka, Advocate
for the appellant.

T.P.S. MANN, J.

The prosecutrix has filed the present appeal for challenging the judgment dated 3.1.2015 passed by learned Additional Sessions Judge, Ambala whereby respondent-Gulshan Kumar @ Guchu, here-in-after referred to as '**the accused**', was acquitted of the charges under Sections 376 and 506 IPC.

The case of the prosecution, in nutshell, is that the accused used to visit the house of the prosecutrix and after alluring her on the pretext of marriage, having sexual intercourse with her but due to family honour, she did not disclose about this fact to any one. When she asked him to perform marriage with her, he flatly refused. On 25.6.2014 at about 11.30 p.m., the accused came to her house and after gagging her mouth with his hand, laid her on the bed and raped her. At that time, she was alone in her room whereas her other family members were sleeping on the roof top of the second floor of the house. When she tried to raise an alarm, the accused threatened to kill her.

Having heard learned counsel for the appellant and on going through the impugned judgment of acquittal, this Court finds that the prosecution case was highly improbable. While the prosecutrix was aged about 30 years, the accused was just about 20 years' old. There could be, thus, no occasion for the accused to have lured the prosecutrix on the pretext of marrying her. As regards the incident of 25.6.2014, it was the prosecutrix herself, who had opened the door and allowed the accused to enter the room. At that time, her brother and sister-in-law besides tenants living in the house were present in the premises. The prosecutrix claimed that she had made statement to the police on 25.6.2014 but no such statement was available on the judicial file. The prosecutrix claimed that subsequent to 25.6.2014, she never went to the Police Station. However, PW2 Lady Head Constable Mahinder Kaur testified that on 2.7.2014, the prosecutrix made statement before SI Jagat Ram and, thereafter, she was taken to General Hospital, Ambala for medical examination. Even as per the medical evidence, no external mark of injury was seen on any part of the body of the prosecutrix.

In view of the above, no fault can be found with the acquittal of the accused, as recorded by the trial Court.

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

(T.P.S. MANN)
JUDGE

May 26, 2015
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(MAHAVIR S. CHAUHAN)
JUDGE