

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

**Criminal Appeal No. D-576-DB of 2015**

Date of Decision : September 28, 2015

Hemlata

.....Appellant

**VERSUS**

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE T.P.S.MANN  
HON'BLE MR.JUSTICE HARI PAL VERMA

Present : Mr. Kanwal Goyal, Advocate.

**T.P.S. MANN, J.**

The prosecutrix has filed the present appeal for challenging the judgment dated 23.1.2015 passed by learned Additional Sessions Judge, Narnaul whereby accused Yogesh, respondent No.2, herein, stands acquitted of the charges under Sections 376, 452 and 506 IPC.

The case of the prosecution, in nutshell, is that on 12.7.2014 at around 11/11.30 p.m., when the husband of the prosecutrix was away to field and her mother-in-law and her children were sleeping in the courtyard, she alone was sleeping in the cattle-shed. The accused entered her house, after scaling the boundary wall. He gagged the mouth of the prosecutrix and took her inside the shed. After making her lie on a piece of a jute bag in the shed, he committed sexual intercourse with her against her

wishes. When she tried to raise an alarm, the accused threatened her with dire consequences. The prosecutrix, however, managed to rescue herself from the clutches of the accused and raised an alarm, which attracted her mother-in-law to the spot. Both of them over powered the accused. In the meantime, the husband of the prosecutrix also reached there and they all tied the accused with a rope. On being informed by Hajari Lal, brother-in-law of the prosecutrix, the police reached there where the prosecutrix got recorded her statement and handed over the accused to the police. Consequently, FIR No. 377 dated 13.7.2014 under Sections 376, 452 and 506 IPC was registered against the accused at Police Station Mahendergarh.

After hearing learned counsel for the appellant and on going through the impugned judgment, this Court finds that during her cross-examination before the trial Court, the prosecutrix admitted that on 31.3.2014, the accused had taken her from her house and kept her in a room for about 45 days. Though the husband of the prosecutrix got a case registered against the accused regarding the incident of 31.3.2014 yet when examined under Section 164 Cr.P.C., the prosecutrix had stated that she was not kidnapped by the accused, rather, she was turned out of her matrimonial home by her husband after giving beatings to her.

As regards the present incident, which pertained to

12.7.2014, the prosecutrix had stated that she was subjected to rape by the accused in the cattle-shed. Despite the same, no mark of injury was found on her person during her medico-legal examination. Further, at that time, the husband of the prosecutrix was away to the fields whereas her mother-in-law and her children were sleeping in the courtyard. From the above material, it can safely be inferred that the accused, after entering the house of the prosecutrix, had consensual sex with her.

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**

**( HARI PAL VERMA )  
JUDGE**

**September 28, 2015**  
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