

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No.D-517-DB of 2014

Date of Decision : March 03, 2015

Sunita

.....Appellant

VERSUS

State of Haryana and another

.....Respondents

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

Present : Mr. Rajesh Lamba, Advocate.

T.P.S. MANN, J.

The prosecutrix has filed the present appeal for challenging the judgment dated 9.1.2014 passed by the Additional Sessions Judge, Faridabad, whereby respondent Abdul Waheed was acquitted of the charges under Sections 376 and 506 IPC.

The case of the prosecution, in nutshell, is that the prosecutrix was a divorcee and aged about 30 years. From her marriage, three children were born, who were living with her husband. Respondent Abdul Waheed was running a shop of cycle repairing and the prosecutrix used to visit his shop for getting her cycle repaired. He came to know about the prosecutrix being a divorcee and started alluring her. He even

committed rape upon her many times. When she learnt that she had become pregnant from respondent Abdul Waheed, she confronted him with the said fact but he told her to go in for abortion and he would bear all the expenses. She, however, refused to go in for abortion and told him that as he had ruined her life, she would go for legal action against him.

The trial Court, after referring to the testimonies of the witnesses produced by the prosecution as well as by the defence, concluded that the prosecutrix, after changing her name, married respondent Abdul Waheed and both of them had lived together as husband and wife. There was, thus, no question of respondent Abdul Waheed committing rape upon her. Accordingly, respondent Abdul Waheed was acquitted of the charges against him.

Having heard learned counsel for the appellant and on going through the testimony of the appellant herself as PW1 before the trial Court, as described in para 7 of the impugned judgment, this Court finds that the appellant of her own sweet will developed sexual relations with respondent Abdul Waheed and when she became pregnant, she asked him to marry her but he refused. However, Nikahnama Ex.DA, which bears the photograph of the appellant and her changed name, is a pointer to the fact that the appellant had married respondent Abdul

Waheed willingly. Her explanation that the Nikahnama Ex.DA does not bear her thumb-impression or that her photograph was taken when she went to shop of a scrap dealer and accused came and stood nearby her, followed by brother of the accused taking their photos on mobile, cannot be believed. Even PW2 Jai Parkash @ Bablu testified that he had given on rent one room on ground floor of his house to the prosecutrix and the accused in the month of October, 2010 and they had been residing as husband and wife. It is another thing that this witness was declared hostile and in his cross-examination by the learned Public Prosecutor he denied making of statement to the police. Furthermore, DW1 Abdul Salik Ashrafi deposed before the trial Court about the prosecutrix and the accused getting married of their own. He had signed the Nikahnama as a witness. To the same effect is the testimony of DW2 Kalu.

With the type of evidence available on the file, it cannot be said that the trial Court erred in acquitting respondent Abdul Waheed of the charges against him.

Resultantly, the appeal is without any merit and, therefore, dismissed.

(T.P.S. MANN)
JUDGE

March 03, 2015
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(MAHAVIR S. CHAUHAN)
JUDGE