

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

**Criminal Appeal D-734-DB of 2015
Date of Decision: October 16, 2015**

Prem Singh

.....Appellant

Versus

State of Haryana and another

..... Respondents

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

Present : Mr. Sushil Gautam, Advocate
for the appellant.

T.P.S.MANN, J.

The appellant, who is father of the prosecutrix, aged about seventeen years, has filed the present appeal for challenging the judgment dated 24.3.2015 passed by the learned Special Judge/Additional Sessions Judge, Panipat, whereby, respondent No. 2-Sujan Kaur stands acquitted of the charges under Sections 120-B, 376 read with Section 34 IPC, Sections 376(2)(g) and 506 of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act, 2012.

The case of the prosecution, in nutshell, is that respondent No. 2-Sujan Kaur had lodged an FIR of theft against

the prosecutrix and when the father of the prosecutrix learnt about the theft case, he asked the prosecutrix to state the true facts. The prosecutrix narrated that Devender, husband of respondent No. 2-Sujan Kaur, used to commit rape on her while Sujan Kaur would guard the place from outside. This thing had been going on for 7/8 months. Accused Manjeet, Gurdeep and Devender had also been raping her in between at the house of Devender. They had threatened her that if she disclosed anything to anyone, she and her family members would be killed. Accused-Devender had taken her to HDFC Bank at Madlauda and gave her an ATM Card. She withdrew money from the account against the said card. Even, accused-Manjeet gave her an ATM Card and she withdrew money against the said card. However, the prosecutrix did not know as to whom the ATM Card belonged. Devender, Manjeet and Gurdeep had been committing rape by turns whereas respondent No.2-Sujan Kaur used to guard the place from outside. Out of shame, she did not inform anyone about the incident. Respondent No. 2-Sujan Kaur and Manjeet filed false case against her to save Devender. When the police came to the house of the appellant time and again, he apprised his wife and son about the facts. Accordingly, on the statement of the appellant, an FIR was registered against Gurdeep, who was apprehended.

Upon completion of the investigation, final report under Section 173 Cr.P.C. was submitted against Gurdeep. However, names of Sujan Kaur, Devender and Manjeet were put in column No. 2. Later on, they were summoned under Section 319 Cr.P.C. as additional accused to face trial along with their co-accused-Gurdeep.

The trial Court acquitted Sujan Kaur and Gurdeep of the charges against them. However, Devender was convicted under Section 376 IPC and sentenced to undergo imprisonment for seven years. Devender and Manjeet were also convicted under Section 6 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to undergo imprisonment for ten years. They were also convicted under Section 506 IPC and sentenced to undergo imprisonment for one year.

Having heard learned counsel for the appellant and on going through the impugned judgment to the extent of acquitting respondent No.2-Sujan Kaur of the charges against her, this Court finds that Sujan Kaur had submitted complaint Ex.DC against the prosecutrix in respect of a theft, which had taken place in her house on 8.11.2012. Possibility cannot be ruled out that because of the said complaint, the prosecutrix had implicated respondent No. 2-Sujan Kaur in the present case.

It was the case of the prosecutrix that accused-Sujan Kaur had called her in the month of July, 2012 and when she reached her house, she bolted the door from outside, whereafter, Devender committed rape upon her. Again in the month of September, 2012 accused-Sujan Kaur called her and at that time accused Manjeet and Devender committed rape upon her while Sujan Kaur guarded the door from outside. Once again, in the month of December, 2012 accused-Sujan Kaur called her whereafter, Manjeet and Devender raped her and at that time, Sujan Kaur bolted the door of the room and guarded the same. Undeniably, accused-Sujan Kaur is the legally wedded wife of accused-Devender and she has two grown up children. The version of the prosecutrix that accused-Sujan Kaur called the prosecutrix in her house on various occasions, on the face of it appears to be highly improbable. No Hindu wife would allow her husband to commit rape upon the prosecutrix and at the same time stand as guard outside the room where the prosecutrix was subjected to rape. Instead, she would restrain her husband and could even go to the extent of lodging a report with the police against her own husband. Under these circumstances, it is difficult to hold that accused-Sujan Kaur had been privy to the crime. On the other hand, the act of filing of complaint Ex.DC by Sujan Kaur against the prosecutrix qua commission of theft by

her gave her reason to falsely implicate Sujan Kaur.

For the foregoing reasons, no case is made out for any interference in the impugned judgment passed by the trial Court while acquitting respondent No. 2-Sujan Kaur of the charges against her.

The appeal is devoid of any merit and, accordingly, dismissed.

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

**October 16, 2015
amit rana**

**(GURMIT RAM)
JUDGE**