

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No.D-839-DB of 2015

Date of Decision : November 16, 2015

Sayema Khan

....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. Rana Kunal, Advocate
for the appellant.

T.P.S. MANN, J.

The prosecutrix has filed the present appeal for challenging the judgment dated 11.2.2015 passed by learned Additional Sessions Judge, Gurgaon whereby the accused, namely, Mirza Quasim Ali Baig @ Shammi, respondent No.2 herein, was acquitted of the charge under Section 376(2)(n) of the Indian Penal Code.

As per the prosecution, on 31.8.2014, the prosecutrix made a statement before Sub Inspector Aarti that she was doing business of fancy lights in partnership with the accused at Kapasehra since August, 2012. In February, 2013, he had taken her to Golf Links, Delhi where at around 9.15 p.m., he ravished her in the car and at around 10.15 p.m., left her at her house. She told him that she would not work with him but he persuaded and promised to marry her and also to get a separate house for her on rent. In December, 2013, they opened another shop of fancy lights in Sikanderpur market. However, since March, 2013, the accused had been taking her to various resorts and motels where he had been making

physical relations with her on the pretext of marriage. He also took her to his own house and introduced her to his family, including his wife and in front of his family he stated that he would marry her. The accused continued making physical relations with her for about one and half years, before finally refusing to marry her. Besides he stopped working with her by saying that he would not have relations with her.

Having heard learned counsel for the appellant and on going through the impugned judgment passed by the trial Court, this Court finds that the appellant is a mature woman, aged thirty five years and well qualified as she has already done Masters in Hotel Management and pursuing her MBA. She claimed to have started the business of fancy lights in partnership with the accused in the year 2012 at Kapasehra and in December, 2013, they opened another shop of fancy lights in Sikanderpur market. According to her, the accused had ravished her in a car in February, 2013 when she went with him to Golf Links, Delhi. In regard to the said incident she claimed to have submitted a complaint to the police and she had signed those documents without reading their contents. In his defence the accused examined ASI Dev Dutt as DW1, who testified that he had enquired into the complaint made by the prosecutrix and furnished enquiry report Ex.D3 after recording the statement of the prosecutrix and also of the accused. In his report ASI Dev Dutt stated that the dispute between the prosecutrix and the accused qua fancy lights stood resolved and nobody was interested in prosecuting the matter any further. The prosecutrix has also admitted in her cross-examination that she had sold her share of the business of fancy lights. Further, she also admitted that memo. of understanding was executed between her and the accused under

which the accused was to pay her a sum of Rs.Ten lacs. With such a background, it is highly improbable that she was being continuously ravished by the accused. The accused has taken the plea that in pursuance of memo. of understanding, the prosecutrix was forcing him to pay the agreed amount of Rs.Ten lacs in one go but when he failed to do so, she filed the present complaint with false allegations. This plea is substantiated in view of the material available on the file that the prosecutrix, who was a mature woman, well educated and a business woman waited for one and half years to lodge complaint against the accused of ravishing her against her will on the promise to marry her. Even after registration of the case, the prosecutrix is shown to have remained in touch with the accused by making calls and sending messages to him. Under these circumstances, possibility cannot be ruled out that she had been a consenting party all throughout and when differences arose between her and the accused regarding the business, she has come up with false allegations of rape against him.

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

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

(T.P.S. MANN)
JUDGE

November 16, 2015
satish

(GURMIT RAM)
JUDGE