

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. No.A-1222-MA of 2014

Date of Decision : January 12, 2015

Asha Rani

.....Applicant

VERSUS

Subhash Singh and others

.....Respondents

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

HON'BLE MR. JUSTICE DR. SHEKHER DHAWAN

Present : Mr. Parvesh Sachdeva, Advocate.

T.P.S. MANN, J.

The applicant, the prosecutrix in the case, who had instituted the criminal complaint on the basis of which respondents No.1 to 4 were tried for committing offences punishable under Sections 376, 506 and 34 IPC, has filed the present application for the grant of special leave to appeal against the judgment dated 14.5.2004 passed by the Additional Sessions Judge, Ferozepur.

Vide impugned judgment, the trial Court came to the conclusion that the testimony of the prosecutrix was neither corroborated by any other witness nor by medical evidence and, therefore, it did not inspire confidence. Consequently, by extending the benefit of doubt, respondents No.1 to 4 were acquitted of the charges against them.

Having heard learned counsel for the parties and going through the impugned judgment, it is made out that the prosecution version regarding taking of the prosecutrix to one of the rooms of the house by the accused and all the accused first bolting the room followed by accused Meeto Bai exhorting her husband Subhash Singh and brother-in-law Raj Singh and Pala Singh to commit sexual intercourse with the prosecutrix has been held to be unbelievable as no

wife would exhort her husband to have sex with another lady and, that too, in her presence. Further, Krishana Devi, mother of the prosecutrix had earlier filed a criminal complaint against Chand Singh and others for proceeding against them under Sections 376, 506 and 34 IPC, which complaint was ultimately dismissed as withdrawn. In the said criminal complaint, the prosecutrix was projected as one of the eye-witnesses. However, the prosecutrix during her cross-examination in the present case had feigned ignorance about the said fact as also about making of statement in the complaint filed by her mother Krishna Devi. Furthermore, the plea of the prosecutrix in the present case was that she was minor at the time of occurrence but when she had appeared as a witness in the criminal complaint instituted by her mother Krishna Devi. She stated her age as 18 years. Similarly, from the copy of the judgment dated 15.3.2000 (Ex.D8) passed by the Additional Sessions Judge, Ferozepur, it is made out that the sister of the prosecutrix had also initiated a criminal case under Sections 376, 506 and 34 IPC against Satnam Singh and two others, which ended with the acquittal of the accused therein. The judgment of acquittal was recorded for the reason that the sister of the prosecutrix did not support her version. In addition, from Exs. D12 to D16, it is made out that the sister of the prosecutrix had also initiated proceedings under Sections 458 and 376 IPC and Section 25 of the Arms Act against some other persons and during the enquiry conducted by the police, the complaint preferred by the sister of the prosecutrix was found to be false.

In the present case, the prosecutrix has not placed on record

qua her medical examination, despite the fact that she admitted in her

cross-examination that she had visited the Civil Hospital. Her plea that the doctor was not available due to holidays cannot be accepted. Therefore, her testimony is not corroborated by medical evidence.

There is also no evidence on the record that the prosecutrix ever approached the police for getting a criminal case registered against the accused in the present case. Her explanation that she did go to the Police Station for lodging the report but due to Dewali, no police official was present, is devoid of any force.

As regards the ocular account, the prosecutrix had claimed that when her sister Sheelo Bai returned home after making purchases, she had witnessed the occurrence. However, said Sheelo Bai was not examined and was given up without assigning any plausible reasons.

We have minutely scanned the impugned judgment of acquittal and find that the same is based upon proper appreciation of the evidence available on the record. Therefore, no case is made out for any interference with the same.

Resultantly, the application filed by the applicant for grant of special leave to appeal is devoid of any merit and, therefore, dismissed.

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

**(SHEKHER DHAWAN)
JUDGE**

January 12, 2015
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