

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

CRM A-1630-MA of 2015

Date of Decision: November 5, 2015

State of Haryana

.....Applicant

Versus

Surinder Singh @ Sinder

..... Respondent

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

Present : Mr. Praveen Bhadu, Asstt. A.G. Haryana
for the applicant-State.

T.P.S.MANN, J

The State of Haryana has filed the present application under Section 378(3) Cr.P.C. for grant of leave to appeal against the judgment dated 21.4.2015 passed by learned Additional Sessions Judge, Ambala, whereby the accused/respondent stands acquitted of the charges under Sections 365/328/376/506 IPC.

The case of the prosecution, when put briefly is that on 28.9.2013 at about 8.00 a.m., the prosecutrix, who was 10th class pass and aged about thirty years, left the house without informing anyone. Upto 8.10.2013, she did not return. Her father and others had been searching for her. Accordingly, FIR under Section 365 IPC was registered. During the investigation of the case, the prosecutrix was recovered and her statement recorded under Section 164 Cr.P.C., on 22.5.2014. She was got medico-legally examined on 25.5.2014. Accordingly, offences under Sections 328/376/506 IPC were added in the case. The accused was arrested on 26.5.2014.

After hearing learned counsel for the applicant/State

and on going through the impugned judgment of acquittal, this Court finds that in her statement Ex.P2 recorded under Section 164 Cr.P.C. the prosecutrix had stated that she had not learnt about the accused being already married and having four years' old son. However, while deposing before the trial Court, the prosecutrix admitted that the wife and son of the accused used to visit the accused, when he was residing in her neighbourhood. She also stated that it was in her knowledge that the accused stood married and having a son from his wife. Under these circumstances, it cannot be said that the accused had sexual intercourse with her after concealing the factum of being already married and having a son.

In the statement Ex.P8 made by father of the prosecutrix, on the basis of which, FIR under Section 365 IPC was registered, it was stated that the prosecutrix, aged about thirty years, left her house on 28.9.2013 without informing anyone. It is also the case of the prosecution that the prosecutrix returned home after about nine months, i.e. 6.5.2014. In her statement recorded under Section 164 Cr.P.C. the prosecutrix disclosed that she had become friendly with the accused, who resided in her neighbourhood and proposed to her for marriage but she did not agree. The accused put some intoxicant in her eyes and she started following him. Thereafter, he took her to Nellore City, in Andhra Pradesh, where he kept her for some months and raped her. Further, the accused used to beat her and on 22.2.2014, brought her to his sister's house in Patiala where they stayed as husband and wife. It is also stated that on 12.3.2014, the accused by adopting deceptive means, solemnized marriage with her in the Gurudwara and after the marriage, she learnt that the accused was already married and

having four years' old son. Further, on 6.5.2014, she escaped from Patiala and reached Ambala. She deposed during her cross-examination that she did not have any affair with the accused. However, the said version was clearly at variance with her explanation offered when her statement was recorded by the Magistrate that she was totally unconscious. Her explanation cannot be accepted as it stood mentioned in the said statement that the same was read out to her and she admitted the same to be correct.

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

The application is without any merit and, therefore, dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

November 5, 2015
amit rana

(GURMIT RAM)
JUDGE