

CRM-13216-2016 and
CRA-AD-95-2015 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-13216-2016 and
CRA-AD-95-2015 (O&M)

Date of decision: 28.04.2016

Nisha

..... Applicant-Appellant

Versus

Jagtar Singh and others

..... Respondents

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

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

PRESENT: Dr. Amarpreet Sandhu, Advocate
for the applicant-appellant.

RAMENDRA JAIN, J.

CRM-36410-2015

Heard.

Sufficient cause has been shown for condonation of delay in filing the appeal. The application is, therefore, accepted. The delay of 272 days in filing the appeal is condoned.

CRM-13216-2016 and
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On the complaint of applicant-appellant, the respondents were booked and tried under Sections 376 (2), 341, 354-A, 354-D, 506 read with Section 120-B of the Indian Penal Code (IPC) and Sections 6

and 12 of Protection of Children from Sexual Offences Act, 2012, on the allegations that they for the last six months being police personnels were forcing her to keep physical relations with them and finally raped her under the threat to eliminate her and her parents. They used to intercept her way and tried to blackmail her. They even took her to an isolated place by forcibly making her sit in a vehicle and then raped her. When she tried to escape before committing rape upon her, they thrashed her and put revolver on her head. The respondents also administered some drug to her thereafter. Out of fear, she tried to commit suicide, but her brother saved her.

3. On appraisal of evidence led by the prosecution and hearing learned counsel for both the sides, the trial Court did not find itself convinced with the prosecution story and, thus, acquitted the respondents vide impugned judgment dated 11.11.2014.

4. Being aggrieved, the applicant-appellant has filed the present application under Section 378(4) Cr.P.C. seeking leave to file the accompanying appeal.

5. Learned counsel for the applicant-appellant contended that the impugned judgment is based on surmises and conjectures. There was foolproof evidence on the record that the applicant-appellant was raped by the respondents by illegally confining and assaulting her. The trial Court ought not to have dismissed the application filed by the prosecution for re-examination of the applicant-appellant. The Court below has failed to appreciate that the applicant-appellant was minor at the time of incident.

6. After giving our thoughtful consideration to the submissions made by learned counsel for the applicant-appellant, we find no merit in the instant application for the reasons to follow.

7. The applicant-appellant as PW-5 has failed to recognize any of the respondents except respondent No. 3-Akshay. She testified that she had love affair with respondent No. 3 and had no relation with any of the other respondents. She had all type of relations with respondent No. 3 including rape. While categorically pointing towards respondent No. 3 in the Court by his clothes, she deposed that she does not know any of the other respondents. She further testified that she wanted to marry respondent No. 3, who too was ready to perform marriage with her. The other four respondents did not ever commit any wrong with her. She only had a wish that her marriage be solemnized with respondent No. 3, who never made physical relations with her forcibly or committed rape with her. Since her parents came to know about her relations with respondent No. 3, therefore, problem had occurred in their relations.

8. Even in cross-examination, the applicant-appellant deposed that she had made her statement Ex. P-4 before the Magistrate falsely under public pressure. On confrontation with her earlier statements Ex. P-9 and Ex. P-10, she denied to have made the same. Since the applicant-appellant herself exonerated all the respondents, therefore, the trial Court had no other option, but to acquit them. Remaining witnesses examined by the prosecution are of formal nature and thus, their testimonies are of no avail.

9. Statement of PW-15 Vinod Kumar was based on hearsay and

thus, the same could not establish the complicity of any of the respondents.

10. After appreciation of evidence and detailed discussion, the trial Court found the prosecutrix to be of more than 18 years of age. We have also carefully scrutinized the findings of the trial Court qua the age of the prosecutrix and find no ambiguity or illegality in the same.

11. Medical evidence is also not in favour of the applicant-appellant, because PW-24 Dr. Asha Kiran testified that at the time of medico-legal examination of the applicant-appellant, no external mark of injury was seen on her person.

12. From the discussion above, no case is made out for any interference in the impugned judgment.

13. Consequently, the instant application, being completely devoid of any merit is dismissed. Leave to appeal is declined and resultantly, the appeal is dismissed.

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

**(RAMENDRA JAIN)
JUDGE**

April 28, 2016
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