

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-D-1208-DB-2015 (O&M)
DATE OF DECISION: January 28, 2016

Santosh Saini

...Appellant

versus

State of Haryana, etc.

...Respondents

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

Present: Mr. Abhishek Yadav, Advocate for the appellant

RAMENDRA JAIN, J.

CRM No.25748 of 2015:

The prayer made in the application is to condone the delay of 402 days in filing the present appeal under section 378(3) Cr.PC.

Sufficient grounds have been shown in the application for the condonation of delay. Hence, the delay is condoned.

CRA-D-1208-DB-2015:

The appellant has assailed the judgment dated 28.03.2014 passed by the Additional Sessions Judge, Rewari, acquitting respondent No.2 under Section 376, 493, 506 IPC.

Briefly stated appellant moved a written complaint, Ex.P.A on 6.8.2012 to the Superintendent of Police, Rewari, about her enticing away and committing rape upon her by respondent No.2 on the pretext of providing her job. On 26.05.2012, respondent No.2 had solemnized marriage with her at Mata Mansa Devi Temple, Panchkula. She started living in her matrimonial home with effect from 15.06.2012 at Village Sehlanga. Her in-laws started taunting for not bringing dowry. They demanded Rs.5-6 lacs from her father. On 16.6.2012, her sister-in-law, namely, Jyoti took away her gold and silver ornaments and cash amounting to Rs.4000/-. She was maltreated and given beatings for dowry with effect from July 28, 2012 to July 31, 2012. Respondent No.2 and his family members had forcibly made her to write that she was going to her parental home out of her free will. She was threatened, in case, she would not bring Rs.5-6 lacs, her younger brother would be killed. On the basis of above complaint, FIR under Sections 498A/506/34 IPC was registered.

During further investigation, another complaint, Ex.PA/1 was received in the office of Superintendent of Police,

Rewari, alleging that respondent No.2 had committed rape upon her by marrying her illegally. The facts were verified by DSP, Rewari which led to addition of Sections 493 and 376 IPC and deletion of Section 498A IPC in the FIR. The statement of the appellant was got recorded under Section 164 Cr.P.C. Respondent No.2 was arrested. He was medico-legally examined. Statements of the relevant witnesses were recorded. On completion of investigation, challan under Section 173 Cr.P.C. was presented.

The prosecution in order to prove its case, examined as many as 10 witnesses. Statement of respondent No.2 under Section 313 Cr.P.C. was recorded putting the entire incriminating evidence which had come on record against him to which he denied and pleaded false implication.

Learned counsel for the appellant has argued that the impugned judgment of the trial Court is based on surmises and conjectures. Respondent No.2 has been acquitted without appreciation of evidence. The version of the complainant has been duly corroborated by the evidence on record, but despite that respondent No.2 has been wrongly acquitted placing reliance on the defence version.

After giving our thoughtful consideration to the submissions made by learned counsel for the appellant, we find

that the present appeal is completely devoid of any merits for the reasons to follow.

- (i) DDR No.21, dated 23.5.2012 (Ex.DY) got recorded by the mother of the appellant, shows that the appellant had left the house out of her free will and without disclosing anything to her parents.
- (ii) In her cross-examination, the appellant has categorically admitted that on 28.5.2012 she had appeared before Hon'ble Ms. Justice Nirmaljit Kaur and had sought protection from the Court. Non reporting the matter by the prosecutrix to the police immediately or by her parents on 19.5.2012 when for the first time, respondent No.1 had allegedly committed rape upon her, creates suspicion about the entire prosecution story, more particularly, when it is evident on the record that the appellant solemnized marriage with respondent No.2 and further sought protection from this Court. She was graduate and aged around 25 years at the time of alleged incident and thus, must be knowing the consequences of her solemnizing

marriage and thereafter seeking protection from the Court.

- (iii) The appellant approached this Court on 28.5.2012 seeking protection order upon which order Ex.D2 was passed. The above fact shows that she had married respondent No.2 with her sweet will and consent and the story of her rape is an after-thought. The marriage certificate, Ex.DZ/1 also belies the prosecution regarding her rape.
- (iv) In the investigation conducted by ASI-Randhir Singh after receipt of complaint, Ex.P.A., the allegation of rape was found to be false and untrue which also demolishes the case of the prosecution regarding committal of rape upon her by the accused/respondent.

No other point has been urged

In view of the aforesaid discussion, we find no merit in the appeal. Accordingly, it is dismissed.

(T.P.S.MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

January 28, 2016
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