

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA No.D-38-DB of 2015

DATE OF DECISION: March 02,2016

Babita Rani

...Appellant

versus

State of Haryana and another

...Respondents

CRM-A-1006-MA-2015

DATE OF DECISION: March 02,2016

State of Haryana

...Applicant

versus

Dharampal

...Respondent

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

Present: Mr. Arvind Singh, Advocate and Mr.Kapil Aggarwal,
Addl. A.G., Haryana for the appellant-applicant.

RAMENDRA JAIN, J.

We propose to deal with judgment of acquittal dated
19.11.2014 passed by Additional Sessions Judge, Karnal which
is the subject matter of the aforesaid appeal and application
before giving conclusions on each of them separately.

The facts, in nutshell, are summarised as under:

On 4.1.2012, the applicant-complainant moved an application before the police that while studying in Government Girls College, Karnal, she came into contact with Dharampal (for short, 'the respondent'). Since the respondent was blind, she was asked to help him. Initially, the respondent visited her occasionally, but subsequently he started visiting her house frequently. In 1996, she left the college and started doing job. However, the respondent remained in her touch and showed his desire to marry her. The respondent even threatened her that non acceptance of his offer would result into his suicide. She took some time to think over it and thereafter stopped to meet the respondent. On June 13, 1999, the respondent visited her home on the pretext of discussing some problem and then invited her at his house. On her visit on the next day, she was forced to marry him. Subsequently, she asked the respondent that in case, he was ready to accept her his wife, she would be ready for the marriage. The respondent put vermilion on her forehead before the deity and declared that their relations as such would be made publicly. She was continuously subjected to sexual inter-course on the pretext that now they were husband and wife. When she became pregnant, she asked the respondent to declare her as his wife publicly. However, he did not do so on the premise that the society would make fun of both the families. Her pregnancy was got aborted. The

respondent again visited her house to accompany him. She was taken to Kurukshetra, where she stayed for two years. They came back in the year 2007. She again became pregnant, but this time also the respondent motivated her to abort her pregnancy. On one more occasion, she became pregnant. However, this time also the pregnancy was got terminated on the advise of the respondent. The dispute ensued, when she received a notice from the respondent on 14.7.2011 describing her as tenant. Resultantly, she filed a case against the respondent under Domestic Violence Act. On the basis of aforesaid allegations, the machinery of law was set into motion.

The respondent was charge sheeted under Sections 417,376,313,493,496 IPC to which he pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined as many as twenty eight witnesses. Thereafter, statement of the respondent under section 313 CrPC was recorded, putting incriminating evidence brought against him.

In defence evidence, the respondent examined as many as eight witnesses.

After hearing both the sides, learned trial Court acquitted the respondent of the charges against him.

Being aggrieved with the acquittal of the respondent, the complainant as well as the State of Haryana have

approached this Court, assailing the aforesaid judgment of the trial Court.

Learned counsel for the complainant as well as the learned State counsel argued that the impugned judgment of the trial Court is based on surmises and conjectures. The learned trial Court has misread the evidence adduced by the prosecution against the respondent. He has wrongly been acquitted on assumptions and presumptions. The prosecution had clearly established duly corroborated by the medical evidence beyond reasonable doubt that the complainant was repeatedly raped by the respondent and her pregnancy was got aborted thrice. The trial Court has erred in not appreciating the prosecution version, while giving undue weight to the defence version.

Having given our thoughtful consideration, we find the present application/appeal completely devoid of any merit for the reasons to follow.

The version of the complainant that the respondent put vermilion on her forehead before the deity and he made her to believe that she was his legally wedded wife was taken to be untrue by the trial Court as she did not prove that the marriage was solemnized by adopting the required ceremonies for a marriage. Moreover, she did not leave the company of respondent even on coming to know about his marriage with one Saroj Rani, rather she came with the plea that the dispute

ensued between them on receiving the notice, terminating her licence, meaning thereby she was well aware that the respondent was a married person. Thus, it is proved on record that the respondent and the complainant were living together in a live-in-relationship.

Moreover, the CD Ex.MO2 produced by the prosecution has not been proved as required under law. However, the said CD evinces that the complainant was pressurising the respondent to admit her as his wife. From the conversation between the two, it is clear that the complainant was well aware of the marriage of the respondent.

The stand of the prosecutrix that the abortion was got conducted by the respondent was disbelieved by the trial Court on the premise that PW9 Dr.Parul Ajmani specifically deposed that the complainant came for abortion along with her sister. No abortion was done and only cleaning was done. Moreover, there is no evidence to suggest that any other abortion was got conducted by the prosecutrix. Thus, the presence of sister at the alleged initial abortion shows that the complainant was not under any pressure of the respondent, rather she had willingly got aborted her pregnancy.

The trial Court after scanning the evidence came to the conclusion that the prosecutrix and the respondent were living together in a live-in-relationship and the relation so established with the respondent was on her own and without

any pressure. The aforesaid conclusion does not require any interference, being based on appreciation of evidence.

In view of the aforesaid discussion, we find no merit in both the above appeal and application. Accordingly, the prayer for seeking leave to appeal against the judgment of acquittal dated 19.11.2014 is declined and the appeal is dismissed.

(T.P.S.MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

March 02,2016
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