

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

CRA-D-465-DB of 2015 (O & M)
Date of decision : 11.4.2016

Meenu

.....Appellant

v.

State of Punjab and others

.....Respondents

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

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporters?
3. Whether the judgment should be reported in the Digest?

Present : Mr. Shashank Bhandari, Advocate
for the appellant

RAMENDRA JAIN, J.

CRM No. 9786 of 2015 :

Heard. Sufficient cause has been shown for condonation of delay in filing of the appeal. The application is, therefore, accepted. The delay of 78 days in filing of the appeal is condoned.

CRA-D-465-DB of 2015 :

Respondents No.2 to 7 (in short “the private respondents”) were booked and tried on the broad allegations under Sections 498A, 315, 323 and 506 IPC besides, respondent No. 2 Saudagar Singh under Section 376 IPC.

The prosecutrix, aged 21 years, and respondent No.2 are neighbors.

The prosecutrix had an affair with him. On 6.4.2013 the prosecutrix made a statement before ASI Dharampal that on 11.6.2012, respondent No.2 after committing sexual intercourse with her, asked her to marry him. Resultantly, on 13.6.2012 she solemnized marriage with him before the Court and thereafter, they started living as husband and wife in a rented accommodation at Village Kambli. They stayed there for three months and then shifted to village Kishanpura near Banur in the matrimonial house of Amandeep Kaur (sister in law of the prosecutrix). There also they stayed for three months and then shifted to village Dhanas. In the absence of respondent No.2- Saudagar Singh, her brothers in law, namely, Bahadur Singh and Gurjit Singh- respondents No.5 and 7 respectively, used to rape her under threat of dire consequences. Her husband respondent No.2 also used to beat the prosecutrix to force her to take her share in the parental property by saying that he had married her keeping in view her parental property, otherwise would not have done so. Her mother in law Paramjit Kaur- respondent No.6 and sister in law Amandeep Kaur- respondent No.4 used to taunt the prosecutrix that neither she has brought any dowry nor was taking any share in the parental property. All the respondents claimed that in case, the prosecutrix wants to live in the matrimonial home, then she has to bring gold ornaments for all the ladies of the house besides, Innova car for her husband. She was beaten up on account of demand of dowry. Finally, on 5.4.2013 respondents dragged her, pulled her hair and gave her severe beatings, with a view to eliminate her on account of which she fell unconscious. On regaining conscious, she reached her parental house from where she was got admitted in the hospital.

After hearing learned counsel and perusing the entire evidence on

record for both the sides, the learned trial Court acquitted respondents No.2 to 7 vide impugned judgment dated 25.9.2014.

It is necessary to mention here that respondent No.1-Saudagar Singh was convicted only under Section 323 IPC vide the impugned judgment.

Being aggrieved, the prosecutrix has filed the present appeal.

Learned counsel for the appellant argued that the impugned judgment is based on surmises and conjectures. The learned trial Court has failed to appreciate that the appellant as PW4 in unambiguous terms has deposed about her rape by respondent No.2 and her brothers in law respondents No.5 and 7. The Court below has failed to appreciate that no woman would level false allegations of rape against anyone, putting her own reputation and honour at stake. It was also evident from the deposition of the appellant-prosecutrix, dully corroborated by medical evidence i.e. statement of PW2 Dr. Mohinder Kaur that she was maltreated and given beatings by the private respondents. PW3 Dr. Harpreet Oberoi had also testified that the prosecutrix was raped, harassed, maltreated and given beatings by the private respondents. The parents of the prosecutrix namely Lal Singh and Dalbir Kaur as PW5 and PW6 respectively also corroborated her deposition and thus, the trial Court ought to have convicted them.

We have given our thoughtful consideration to the above submissions and find the present appeal completely meritless for the reasons to follow.

(i) The appellant in her initial complaint which set the criminal law into motion had stated that she was having love affair with respondent No.2 who committed sexual intercourse with her on

11.6.2012 and thereafter, she solemnized marriage with him on 13.6.2012 before the Court. Admittedly, the prosecutrix at the time of her marriage was major being 25 years old. Had there been any forcible rape upon the prosecutrix by respondent No.2, in that eventuality she would not have married him after two days on 13.6.2012 and thus, the above story of rape put forth by the prosecutrix is proved to be false and concocted one.

(ii) As far as allegations of rape and demand of dowry against respondents No.5 and 7 brothers of respondent No.2- husband of the prosecutrix are concerned, the same have also no legs to stand, because they were married on the relevant date having their own children. Hence, it does not appeal to reason that they would raise demand of dowry from their brother's wife instead from their own wives. Even otherwise, they cannot be termed as the beneficiary of the dowry articles, if any, which would have been brought by the prosecutrix.

(iii) Allegations against respondents No.2 and 6 parents in law namely Ran Singh and his wife Paramjit Kaur of mal treatment and demand of dowry, are also not proved on record, because when respondent No.2-husband of the prosecutrix did not raise any demand of Innova car and gold articles from her, in that eventuality, they cannot be said to be beneficiary of the same.

(iv) The allegations of the prosecutrix of inflicting kick blows in her abdomen by her husband Saudagar Singh to cause death of her fetus is also not proved, because at the time of her medico legal

examination on 6.4.2013 by PW 2 Dr. Mohinder Kaur, two injuries in the shape of linear abrasions on volar surfaces on right and left forearms, one injury in the shape of complain on the right side of forehead and another injury in the shape of pain in abdomen were observed. The prosecutrix-appellant again got examined herself from PW3 Dr. Harpreet Oberoi on 8.4.2013. The said doctor to ascertain as to whether there was any damage to the alleged pregnancy of 12/14 weeks of the prosecutrix, advised for urinary pregnancy test and ultrasound for gestational age for well being of the fetus. However, she did not get conducted any such test and resultantly failed to prove any such record. On 30.4.2013 a male fetus was expelled from the body of the prosecutrix during the period of 8.4.2013 to 30.4.2013. The prosecutrix in her cross examination clarified that on 10.4.2013, she has got conducted her ultrasound as per her wishes. There is nothing on the file to show that what medicines were taken by the prosecutrix in between 10.4.2013 to 29.4.2013. Hence, it does not appeal to reason that any blow allegedly given by respondent No.2-Saudagar Singh to the prosecutrix on 25.3.2013 caused her miscarriage after one month, more particularly, when there was no sign of spotting etc. to her during this period. PW9 Dr. Ritu Bassi has clarified that there can be numerous reasons for such kind of inevitable abortions. As per history given by the prosecutrix she was having bleeding for the last four days. The prosecutrix had not given any other history. Thus, offence under Section 315 IPC is also not proved.

Learned counsel for the appellant has miserably failed to put any dent in any of the findings of the learned court below.

We have gone through the impugned judgment and found no illegality or perversity in the same.

Accordingly, the appeal being completely devoid of any merit, is hereby dismissed.

(T.P.S. MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

11.4.2016
Ashwani