

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No.8942 of 2016 and
CRA No.D-661-DB of 2015
DATE OF DECISION: March 21,2016

Renu Gupta

...Appellant

versus

State of Haryana and another

...Respondents

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

Present: Mr.G.S.Pannu, Advocate for the appellant.

RAMENDRA JAIN, J.

CRM No.8942 of 2016

This is an application for restoration of the main appeal to its original number.

After hearing learned counsel for the applicant, the prayer made in the application is allowed. The main appeal is restored to its original number.

CRA No.D-661-DB of 2015

Through the present appeal, the appellant has assailed the judgment of acquittal dated 30.1.2015 passed by the Additional Sessions Judge, Gurgaon.

The brief facts which are relevant to dispose of this appeal are recapitulated as under:

According to the prosecution, on 6.1.2014, a complaint was moved by the prosecutrix that she met with respondent No.2 in 2006 who used to borrow money from her from time to time and executed an agreement for ₹35 lacs in the month of August 2007. Respondent No.2

had dispute with his sisters and wife which led him to start living with her. He had also dispute with some persons in Chhatisgarh and was involved in several court cases there. After the death of appellant's husband in 2010, respondent No.2 started making physical relations with her under the pretext of marriage. He also forced her to sell her house and squandered her money qua insurance and gratuity of her husband. Ultimately, on her demand to return the money, she and her daughter was subjected to assault and threatening. In 2011, respondent No.2 had taken her gold jewellery weighing 627 gms and hypothecated it against a loan. Repeated requests for returning the jewellery did not bring any fruitful result. The loan standing in the name of respondent No.2 was got transferred in her name in January 2013 and was repaid in August 2013. The appellant got released her jewellery. On 26.8.2013, when respondent No.2 returned from Bangkok, he assaulted her and snatched her entire gold. Even she was threatened that in case she would not pay ₹8 lacs, respondent No.2 would lodge a false case against her and obtained a receipt under her signatures for the aforesaid amount. When she was going to Kaithal on 3.1.2014, she was threatened by respondent No.2 and his Advocate friends. While she was returning back, 4-5 boys had stopped her car and threatened to kill them. Not only, respondent No.2 was misusing her financially and sexually, but also keeping bad eyes on her daughter.

On these allegations, formal FIR was registered.

Investigation was commenced. Statements of relevant witnesses were

recorded. However, the appellant refused for medico legal examination. Respondent No.2 was arrested. On completion of investigation, challan was presented in the Court.

Respondent No.2 was charge sheeted under Sections 323,506 and 376(2)(n) IPC to which he pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined as many as seven witnesses. Statement of respondent No.2 was recorded under section 313 CrPC putting the entire incriminating evidence to which he denied all the allegations and pleaded false implication. However, no evidence in defence was led.

The trial Court after hearing both the sides and analysing the evidence did not find itself convinced with the prosecution story. Accordingly, it acquitted respondent No.2.

Learned counsel for the appellant submits that the trial Court has wrongly acquitted respondent No.2, without appreciating the fully corroborated depositions of the complainant and other witnesses. It was the specific allegation of the prosecutrix that respondent No.2 had established physical relations with her under the pretext of marriage, however, he did not do so.

After giving our thoughtful consideration to the arguments advanced by learned counsel for the appellant, we find the present appeal completely devoid of any merit for the reasons to follow.

The appellant is the star witness of the case. She is a widow of forty five years of age having two major children.

The trial Court after analysing the entire evidence came to the conclusion that the appellant was well aware that respondent No.2 had not got the divorce. Without obtaining the divorce, respondent No.2 could not solemnize the marriage with her. Even PW4 Surender Singh and PW5 Amit Diwan specifically deposed that appellant and respondent No.2 were living together. This evidence suggests that she was maintaining consensual sexual relations with him with her own free will and was not duped under the pretext of marriage.

The evidence available on record also shows that the appellant was continuously living for about four years with respondent No.2 in her house and even running joint account with him regarding their business. It is also the admission of the appellant that she was not only helped by respondent No.2 in the business of sale of readymade garments, but she had visited abroad on several occasions in this connection. Even they were having the joint land in Bilaspur. The evidence further suggests that on the basis of complaint dated 3.12.2013 regarding monetary dispute, an FIR Ex.DX was lodged by respondent No.2 against the appellant. In order to counter blast the aforesaid FIR, the prosecutrix lodged the present FIR on 10.1.2014 against respondent No.2. Thus, it is a clear-cut case that the present FIR is the outcome of the monetary dispute in the professional rivalry between the two and nothing else than that.

The appreciation of evidence by the trial Court that the prosecutrix, a widow having two major children had established consensual physical relations with respondent No.2 with her own free will, does not require any interference by this Court.

In view of the aforesaid discussion, having no merit, this appeal is dismissed.

(T.P.S.MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

March 21,2016
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