

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-736-MA of 2016
Date of Decision: 23.05.2016

GeetaApplicant

Versus

State of Haryana and anotherRespondents

**CORAM: HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE GURMIT RAM**

Present: Mr. Keshav Pratap Singh, Advocate,
for the applicant.

T.P.S. Mann, J.

The prosecutrix has filed the present application under Section 378(4) of the Code of Criminal Procedure for grant of leave to appeal against the judgment dated 29.01.2016 passed by learned Additional Sessions Judge, Jind, whereby respondent No.2-Suresh stood acquitted of the charges under Sections 376(2)(n) and 506 IPC.

The case of the prosecution, in nut-shell, is that the prosecutrix, who got married about 30 years ago, is illiterate and doing labour. She has two daughters and one son. Her elder

daughter is married. She had been doing the work of cleaning the utensils. About 3-1/2 years before the registration of the FIR, accused-Suresh had asked her to work with him in the fields. When she was working in the fields, the accused, on seeing her alone, started harassing her and when she refused, he raped her against her wishes. He also threatened her with dire consequences, if she disclosed about the occurrence to anyone. Due to fear, she did not narrate about the incident to anybody. Even thereafter, the accused had been repeatedly committing rape upon her without her consent. Accordingly, she had sought taking of legal action against the accused.

Having heard learned counsel for the prosecutrix/applicant and on going through the impugned judgment of acquittal, this Court finds that while appearing in the witness box as PW2, the prosecutrix reiterated all her allegations against the accused as contained in her written complaint Ex.PB on the basis of which, the FIR was registered and statement Ex.PC recorded under Section 164 Cr.P.C. However, the prosecution did not examine any other witness including her daughter to corroborate her statement. The prosecutrix during her cross-examination admitted that since last 10 years, she had been living separately from her husband as he was an alcoholic and used to snatch all her earnings. However, fact remains that it was about 3-1/2 years before the prosecutrix had appeared before the Police and got registered the FIR against the accused. No

satisfactory explanation regarding the delay in lodging of the FIR has been given by the prosecutrix. Merely because the accused had been threatening to kill her is not a valid excuse. The prosecutrix admitted that she had known the accused for the last 14 years. She had family relations with the accused. Even prior to that she had started working in the fields. She also stated that the accused used to give her monthly ration and was also taking her for catering in the marriage functions, he being a Halwai (Sweet Maker) by profession.

In his defence, the accused relied upon application Ex.DA dated 27.1.2014 moved before the local SHO, wherein he prayed for taking action against the prosecutrix as he had got constructed her house by spending a sum of Rs.3 lacs, but she again forcibly took Rs.50,000/- from him after threatening to falsely implicate him in a rape case. The accused also placed on record attested copy of affidavit Ex.DB of the prosecutrix regarding the compromise between her and the accused qua money transaction and construction of a house. Though the prosecutrix denied about the accused giving her Rs.3 lacs for construction of her house yet she admitted that as per settlement her house had been got constructed by Panchayat. Fact remains that application Ex.DA was submitted by the accused to the local SHO much before the prosecutrix had submitted her written complaint against him on the basis of which the FIR was registered on 12.4.2014.

In view of the above, no fault can be found with the impugned judgment of acquittal, which is based on proper appreciation of the evidence brought on record by the parties.

The present application is without any merit and is accordingly dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(GURMIT RAM)
JUDGE

23.5.2016
ds