

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-1847-MA-2015

DATE OF DECISION: May 20,2016

State of Haryana

...Applicant

Versus

Narender

...Respondent

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

Present: Mr.Kapil Aggarwal, Additional Advocate General,
Haryana.
Mr.B.S.Saroha, Advocate for the respondent.

RAMENDRA JAIN, J.

The instant application under Section 378(3) CrPC has been filed by the State of Haryana, seeking leave to file the accompanying appeal against acquittal of the respondent, vide impugned judgment dated 29.5.2015 passed by the learned Additional Sessions Judge, Palwal.

In nutshell, around 4.30 p.m., on 31.5.2014, the prosecutrix presented an application in the Police Station that she was aged about 22 years and married in village Allawalpur. On that very day, she along with her children namely, Anshu and Geeta was sleeping on the roof top. In the night hours, when she came down for urination, all of a sudden, the respondent appeared and stood in front of her. He gagged her mouth and started misbehaving with her.

The respondent tied her hands and mouth with chunni. She

resisted, but was not spared. Injuries were inflicted to her with danda and rape was committed upon her by the respondent under threat that in case the matter is reported to anyone, he would destroy her life by defaming her.

On the basis of above information, a formal FIR was registered. Investigation was commenced. Statements of relevant witnesses were also recorded. The statement of prosecutrix under Section 164 CrPC was recorded. The respondent was arrested. His disclosure statement was recorded. On completion of investigation, final report under Section 173 CrPC was presented for prosecuting the respondent under Sections 323,342,376,506 IPC before the Area Magistrate. On commitment of the case, he was charge-sheeted as such.

On appraisal of evidence and hearing both the sides, the trial Court did not find itself convinced with the prosecution case and thus acquitted the respondent vide impugned judgment dated 29.5.2015.

Learned counsel for the applicant contended that the trial Court has not appreciated the prosecution evidence in a prospective manner and has wrongly acquitted the respondent. The ocular version in its entirety was consistent with the medical evidence.

After giving our thoughtful consideration to the submissions of learned counsel for the applicant, we find the

present application completely meritless for the reasons to follow.

- (i) A perusal of the record shows that PW1-prosecutrix kept on changing her statement time and again having no regard for truth. Besides the complaint dated 31.5.2014 against respondent, her statement under Section 164 CrPC was also got recorded on 1.6.2014 before the learned Illaqa Magistrate, in which, she testified that she along with her two children, besides four children of her sister-in-law was sleeping on the roof top. However, the presence of four children of her sister-in-law is missing in her aforesaid complaint.
- (ii) According to her statement under Section 164 CrPC, the prosecutrix was pushed by the respondent and she fell down. Her head had banged against the bed. On receipt of injuries, she became unconscious. However, PW14 Dr.Santosh Kumar who conducted the medico legal examination of the prosecutrix did not find any injury on her head. Thus, the medical evidence belies the ocular version of the prosecutrix.

(iii) The prosecutrix is a married woman. When she came down for urination, she found the respondent present in her house and consequently raised hue and cry. Had she raised any hue and cry, then her voice would have reached the neighbour(s) or at least the family members or the children sleeping on the roof top. There is no independent corroboration to the deposition of the prosecutrix. It is well settled that the Court should be slow to act on the deposition of such a witness and normally, it must look for corroboration to such evidence.

All the facts and circumstances, discrepancies and the observations made by the trial Court lead to the inference that the prosecution case in all probabilities is false.

In view of the aforesaid discussion, we find no merit in the present application and, therefore, the same is hereby dismissed. Leave to appeal is declined.

(T.P.S.MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

May 20,2016
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