

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA No.AD-114 of 2015

DATE OF DECISION: March 15,2016

Isha 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.S.K.Rana, Advocate for the appellant.

RAMENDRA JAIN, J.

Through the present appeal, the appellant has assailed the judgment of acquittal dated 20.8.2015 passed by the Additional Sessions Judge, Karnal.

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

The appellant was working with O.P.S. Jewellers, Nehru Palace, Karnal. There she met with one Vikas Bansal, who on 9.6.2014 took her to the residence of Amit Dhawan, an astrologer, situated in Sector 7, Rohini, Delhi (respondent No.2) to know her future prospectus of marriage. She met him there. Respondent No.2 praised her and showed his willingness to marry her. Thereafter, they started frequently visiting each other's house and established relations of husband and wife. However, as and when the appellant asked him for solemnizing the marriage, he used to put off the matter on one pretext or the other. Respondent No.2 kept on exploiting her physically

for the last one year on the assurance of solemnizing marriage with her. Later on, she came to know that respondent No.2 had exploited 30-40 girls sexually and physically by giving similar false assurance of marriage with them.

She moved an application dated 22.6.2014 Ex.P10 which led to registration of FIR. The police machinery was set into motion. Respondent No.2 was arrested. On completion of investigation, final report was presented before the Court.

Finding a prima facie case, respondent No.2 was charge sheeted under Section 376 IPC to which he pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined as many as thirteen witnesses.

After closure of prosecution evidence, the statement of respondent No.2 was recorded putting entire incriminating evidence came on record to which he denied and pleaded his false implication.

In defence, respondent No.2 examined three witnesses, besides, placing reliance on documents Ex.D6 and Ex.7.

On appraisal of evidence, the trial Court acquitted respondent No.2 of the charge framed against him.

Learned counsel for the appellant has argued that the findings recorded by the trial Court are erroneous as there is specific evidence on the record that respondent No.2 by

promising to marry the appellant established sexual relations with her and, therefore, he is liable to be convicted for the said offence.

We have given our thoughtful consideration to the arguments advanced by learned counsel for the appellant.

Admittedly, the appellant and one Vikas Bansal were working with M/s. O.P.S. Jewellers, Nehru Palace, Karnal.

The trial Court found that the defence taken by respondent No.2 was not even logical, rather was well convincing and sufficient to falsify the case of the prosecution.

Dr.Rekha Chaudhary, Notary Public, Panipat as PW11 specifically deposed that on 9.5.2014 two affidavits Ex.P24 and Mark PA were presented by Vikas Bansal and Vijay Verma. The affidavit of Vijay Verma Ex.P.24 shows the affixation of photo of respondent No.2 which speaks the delivery of the vehicle No.DL-7CG-6052 to Vikas Bansal. Thus, it is clear that by producing respondent No.2, the vehicle of Vijay Verma was got transferred in the name of Vikas Bansal. The evidence available on record shows that respondent No.2 was made scapegoat to settle the personal score. Respondent No.2 herein got recorded DD No.29-A dated 10.6.2014 claiming that at around 10.30 p.m., after reaching home, he made a call at helpline number 100. The woeful version recorded was that on 9.6.2014 he had been abducted by Vikas Bansal and others for taking some loan and on his refusal, his signatures were forcibly

obtained for getting the aforesaid vehicle transferred. Later on, FIR No.544 dated 9.8.2014 under Sections 365,384,505 read with section 34 IPC was registered at Police Station North Rohini, Delhi. The appellant, respondent No.2 and Vikas Bansal were known to each other. It is the case of the prosecution that the prosecutrix along with Vikas Bansal had gone to Delhi to meet respondent on 9.6.2014. Thus, the version recorded in the aforesaid FIR has duly been proved that the prosecutrix along with Vikas Bansal had demanded money and on his refusal, they made a concocted story and lodged a false FIR against him on 22.6.2014. Thus, the appellant in connivance with Vikas Bansal had made every possible efforts to get rid of the FIR lodged against them and the establishment of forcible physical relations by respondent No.2 with the appellant appears to be false and concocted one.

The version of the appellant that the mobile nos.8295370738 and 9034497319 were used by her to prove that she and respondent No.2 were in touch with each other. However, this version was discarded by the trial Court, because it has come on record that mobile No.9034497319 pertains to Aditi Bansal daughter of Vikas Bansal, whereas, other mobile No.8295370738 belonged to one Rana Partap Singh. Both these persons are accused in FIR No.544 dated 9.8.2014 registered by respondent No.2 against them. It has also come in evidence that Rana Partap Singh and Vikas Bansal had close

relations with the prosecutrix as she was residing at the residence of Mohinder Partap, brother of Rana Partap Singh. In the light of the aforesaid evidence, it can be well inferred that the prosecutrix did not have any such relations with respondent No.2.

The trial Court while acquitting respondent No.2 has observed that there are certain serious discrepancies and contradictions in the evidence of the prosecution which give an impression that the prosecution has not come out with clean hands. The contradictions and omissions are of very serious nature, casting doubt on the prosecution case.

We have gone through the impugned judgment carefully and find no reason to disagree with the same.

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

(T.P.S.MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

March 15,2016
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