

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

Criminal Appeal D-433-DB of 2017

Date of Decision: July 4, 2017

Parveen Kumari

.....Appellant

Versus

State of Haryana and another

..... Respondents

**CORAM : HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE HARI PAL VERMA**

Present : Mr. Jagtar Kureel, Advocate
for the appellant.

T.P.S.MANN, J.

The prosecutrix has filed the present appeal against the judgment dated 6.10.2016 passed by the learned Additional Sessions Judge, Rohtak, whereby, accused Parveen Kumar, respondent No.2 herein, stood acquitted of the charge under Sections 376 and 506 IPC.

According to the prosecution, the prosecutrix was residing in Red Cross Working Women Hostel and pursuing B.A. Course. The accused used to chase and ask her to develop friendship with him. She had been refusing to do so but he continued to follow her. Left with no other alternative,

she started talking with him. They remained in touch for 2/3 months. The accused invited her for dinner on his birthday on 25.7.2006. He took her to his quarter in the medical college and told her that he had arranged a surprised party. After some time, friends of the accused joined him. They started indulging in indecent activities with her. She came out of the quarter to save herself. However, the accused and his friends came in a car and felt sorry. He insisted her to sit in the car as it had grown dark and offered her dinner. On his insistence, she boarded the car. He took her towards Sitara Garden. When she objected, he started misbehaving with her and removed her clothes. He asked his friends to stop the car. The prosecutrix was left on the road in a naked condition. She kept on roaming for 2/3 hours to save herself. Thereafter, some unknown persons came and offered her clothes. She reached the hostel. 2/3 days thereafter, when she went to her college, the accused came and apologized for his act. He re-established contact with her and started calling her on telephone. All this continued for six months, during which period, she revealed everything to the accused about her life. In the year 2007, the accused while describing her as his wife, got her a house on rent in Tilak Nagar,

Rohtak. He took her to various places including Vaishno Devi Temple where also he treated her as his wife. In the meantime, her family members came to know about her relationship with the accused. They became angry and stopped talking with her. She established physical relations with the accused and on two occasions, she became pregnant but the accused got her pregnancy aborted. Thereafter, he shifted her to Kamal Colony and then to Ram Gopal Colony in rented houses at Rohtak. He did not visit her for 2/3 days and his phone was also switched off. Finding no alternative, she revealed everything to family members of the accused, who accepted her as their daughter-in-law. After few days, the accused again told her that he had arranged a party at his house and his parents had called her. He took her in a car to his house. As they reached near his house, the accused took her mobile phone and slapped her. He threatened her by pointing a pistol towards her that on that day, he was getting married and in case she created any scene, he would kill her. She lost her balance but behaved as per the directions of the accused. After marriage, she returned to Rohtak. The accused did not reveal anyone about his relationship with her. Finding no alternative, she lodged a

complaint with the police, on the basis of which, FIR No. 379 dated 16.8.2012 under Sections 376, 354 and 506 IPC was registered at Police Station Civil Lines, Rohtak.

This Court has heard learned counsel for the appellant and also perused the impugned judgment of acquittal.

While appearing before the learned trial Court as PW21, the prosecutrix had stated that on 25.7.2006, when the accused had invited her on his birthday party, where he had also called his friends, his friends forcibly removed her clothes and misbehaved with her. They also prepared video clips. However, in the complaint initially lodged by her, on the basis of which, the FIR was registered, the prosecutrix had not stated that the friends of the accused had removed her clothes. Even no such video clip as has been claimed by the prosecutrix, was recovered by the Investigating Agency during the investigation of the case. She also deposed that on a subsequent occasion, the accused had removed her clothes forcibly and thrown her on a road in a naked condition. However, the man alongwith milkman, who were said to have reached the spot and given her bed sheet to cover her body were not examined nor those clothes and bed

sheet produced in the Court. Similar was the position qua the auto driver, who was said to have been given her clothes. She had stated that after wearing the clothes, she went to the house of her friend at Sukhpura Chowk, however, that friend of the prosecution was also not examined by the prosecutrix.

It is the case of the prosecutrix that the accused had hired rented accommodation for her at Tilak Nagar in the year 2007 and while doing so, he had described her to be his wife and in that rented accommodation, he had established physical relations with her on the pretext of marrying her. PW12 Jaipan, who was said to have rented out the room for the stay of the prosecutrix testified that he had seen the accused with the prosecutrix only once or twice. Therefore, it cannot be accepted that it was the accused, who had arranged the accommodation for the prosecutrix. On the other hand, it was the prosecutrix herself, who took the room on rent in the year 2008. From the year 2007 upto the year 2008, the accused had allegedly shifted her to 2/3 different places where he used to keep her as his wife. However, PW1 Anoop, the owner of one such house deposed that he had let out the room to the prosecutrix in the year 2011 and on his asking the prosecutrix had vacated the

premises in the month of May, 2012. In his cross-examination, he testified that he was seeing the accused for the first time in the Court. To the similar effect was the statement of PW2 Jeet Singh @ Ajit, who had let out a room in his house to the prosecutrix in the month of April, 2012. In his cross-examination, he stated that he did not know the accused. The prosecutrix in her cross-examination admitted that in the year 2012, she used to live in the house of Jeet Singh @ Ajit, however, she also stated that it was she, who was herself shifting her residence from one place to other.

According to the prosecutrix, she had conceived but the accused administered her pills, which resulted in miscarriage. However, no medical evidence has been brought on record by the prosecution to establish the said fact.

It was also the case of the prosecutrix that on 8.8.2012, she had moved complaint Ex.P27 against the accused to the police. However, on 10.8.2012, she had moved another application Ex.P28 to the police for not to take any action on her complaint till 16.8.2012. She further stated that she wanted to go with the accused willingly and with consent. She also stated that she was pressurized to

compromise the matter by the accused and his family members and forced to sign application Ex.P28. However, she stated that she did not meet the accused on 8.8.2012 and 9.8.2012. PW22 Dr. Chhavi Rathee, who had medico-legally examined the prosecutrix deposed by way of her affidavit that the prosecutrix revealed history of sexual intercourse from July, 2006 to 8.8.2012. Firstly, she had intercourse in the month of July 2006 and then she had been having repeated intercourse with the accused and lastly she had intercourse on 9.8.2012 at about 3.00 a.m. and 6.00 a.m. This shows that the prosecutrix was with the accused on 9.8.2012 and she falsely stated in the Court that she did not meet the accused on 8.8.2012 and 9.8.2012 and was forced to sign the application Ex.P28.

Another fact, which may be taken notice of is that before the prosecutrix came in touch with the accused, she had got married in the year 2002. According to her, her marriage was dissolved by way of Panchayati compromise in the year 2003. However, no witness from the Panchayat was examined by the prosecution to corroborate the version of the prosecutrix. No decree of divorce has been placed on the record. Under these circumstances, possibility of prosecutrix

continuing to live with her husband cannot be ruled out. Even otherwise, the sexual intercourse by the accused with the prosecutrix was nothing but consensual, more so, when she admitted that even in the year 2014, during the pendency of the case, the accused established physical relations with her and she was forced to shift from Panchkula to Rohtak.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal. The appeal is without any merit and, therefore, dismissed.

**(T.P.S. MANN)
JUDGE**

July 4, 2017
amit rana

**(HARI PAL VERMA)
JUDGE**

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No