

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. A-1566-MA of 2016

Date of Decision : November 07, 2017

Sunil

....Applicant

VERSUS

State of Haryana and another

...Respondents

**CORAM : HON'BLE MR.JUSTICE T.P.S. MANN
HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU**

Present : Mr. Parveen Kaushik, 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 29.7.2016 passed by the learned Additional Sessions Judge, Rohtak, whereby accused-Gaurav Manchanda, respondent No.2 herein, was acquitted of the charges under Sections 452, 376 and 506 IPC.

According to the prosecution, the applicant resided in a rented house at Rohtak. Her husband had purchased a vehicle which he used to ply as a taxi. She was also running a shop at Gandhi Camp, Rohtak. The accused was also having a shop of garments in front of her shop, due to which they became acquainted with each other. He started coming to her house and became familiar with her husband also. For about 1-1½ years, the accused used to commit rape upon her at her house in the absence of her husband. He would also threaten her. About four months before the registration of FIR,

i.e. in the first week of August, 2014, the accused came to her house in the absence of her husband at about 9/9.30 a.m. and committed rape upon her in her bed room but she did not reveal about this to anybody due to fear. However, on 15.11.2014, she revealed everything to her husband and, accordingly, the FIR was registered at her instance.

After hearing learned counsel for the applicant and on going through the record, this Court finds that the applicant is a married lady, having a daughter, aged about 13 years. According to her, she had taken a house on rent from PW1 Taj Kumari. However, she failed to prove any rent agreement. On the other hand, DW1 Bhupinder testified that Tata Sky connection was issued in the name of the husband of the prosecutrix for House No.519, Sector 14, Rohtak. DW2 Sawan Mal testified that the registration/enrollment forms Ex.D6 and Ex.D7 produced by the prosecutrix at the time of admission of her children showed her address as House No.519, meaning thereby that the prosecutrix resided in House No.519 and not in House No.409 as claimed by her. To the same effect was the testimony of DW3 Bhim Singh.

According to the accused the prosecutrix was indebted to him and when he asked her to refund his money, she quarrelled with him. He also lodged a complaint against her and as a counter blast, the present case was registered against him. To prove the said fact, the accused examined DW4 Shamsheer, who proved the complaint filed by him against the prosecutrix on 20.9.2014 alleging therein that there was money transactions between him and the prosecutrix. She

had borrowed a sum of Rs.1,95,000/- from him and on 17.9.2014 when he demanded the return of his money, she refused to give the same. She then came to his shop and created scene there. She also threatened him in the presence of his friends that she would file false complaint against him. That complaint was filed by him on 20.9.2014, whereas the application on the basis of which the FIR was registered, was moved on 15.11.2014.

It has also come in the evidence that after the accused was released on bail, the applicant moved another complaint against him on the basis of which FIR No.177 dated 3.5.2015 was registered. In the said FIR, it was her case that on 15.4.2015 at about 9.00/9.30 a.m., the accused came to her house and threatened her to give statement in his favour in the rape case. At that time the accused was carrying a pistol with him. The said FIR No.177 was found to be false and proceedings under Section 182 Cr.P.C. were initiated against the prosecutrix.

In view of the above, this Court finds that there is no infirmity in the impugned judgment of acquittal.

The application is without any merit and, therefore, dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(MAHABIR SINGH SINDHU)
JUDGE

November 07, 2017
satish

Whether speaking/reasoned : YES / NO
Whether reportable : YES / NO