

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

211

CRM-A-1615-MA-2016 (O&M)

Date of Decision: May 2nd, 2017

State of Haryana

...Applicant

Versus

Naresh Kumar

...Respondent

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. Ashok Muthreja, Deputy Advocate General, Haryana,
for the applicant.

M. JEYAPPAUL, J. (ORAL)

CRM-28272-2016

There is a delay of 170 days in filing the application seeking
leave to prefer an appeal.

We are convinced with the reasons assigned for the delay of
170 days in filing the application seeking leave to prefer appeal.

Accordingly, the delay is condoned.

Application stands allowed.

CRM-A-1615-MA-2016

The State has filed the present application under Section
378(3) Cr.P.C. praying for leave to prefer an appeal, aggrieved by the
acquittal of respondent-Naresh Kumar who was charged under Sections
302, 363, 366A and 376 of the Indian Penal Code and Section 4 of the
Protection of Children from Sexual Offences Act, 2012.

It is the case of the prosecution that respondent-Naresh Kumar,
who was aged 19 years, used to tease the daughter of PW-1. He having
committed rape upon the daughter of PW-1 caused her death as well.

Learned State counsel submitted that the trial Court had not

properly evaluated the evidence of the star witnesses PW-1 Ramesh and PW-2 Dhapa Devi, the father and grandmother respectively of the deceased. The evidence of the official witnesses has also not been properly evaluated by the trial Court, it is further submitted.

The prosecution has come out with the charge of heinous crime committed by the respondent. The charge is that the respondent having committed rape upon the deceased, caused her death.

The prosecution has primarily relied upon the evidence of PW-1 Ramesh, the father of the deceased and PW-2 Dhapa Devi, the grandmother of the deceased. Unfortunately, both of them have turned wholesale hostile to the case of the prosecution. In other words, their testimony does not lend any weight to the case of the prosecution. Rather they have deposed that the deceased was under depression and as a result of which she committed suicide. They have gone a step further and deposed that accused had not played any role in the death of the deceased.

As per the FSL report, human semen was detected on the *salwar* of the deceased which was sent for examination but the trial Court has rightly pointed out that the semen detected on the *salwar* of the deceased was not sent for DNA examination to prove that the semen belonged to the accused.

As rightly pointed out by the trial Court, there is virtually no evidence to clamp the accused to the charges as framed against him. Therefore, finding that the trial Court has properly evaluated the testimony on record and come to a right conclusion that there is no evidence to establish the case of the prosecution, we are pleased to decline the prayer

seeking leave to prefer an appeal made by the State.

Consequently, the application stands dismissed.

(M. JEYAPPAUL)
JUDGE

May 2nd, 2017
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No