

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

**CRM-A-1260-MA-2017**

**Decided on: 14.11.2017**

**Jagvati**

**.....Applicant**

**vs.**

**State of Haryana and another**

**....Respondents**

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

Present: Mr. S.S. Sodhi, Advocate, for  
Mr. Kamal Singh, Advocate,  
for the applicant.

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**MAHABIR SINGH SINDHU, J.**

The applicant-prosecutrix has filed the present application under Section 378(4) of the Code of Criminal Procedure, for short 'Cr.P.C.' for seeking leave to file an appeal against the judgment dated 14.03.2017 vide which respondent No.2-Pappal @ Prince has been acquitted by Learned Additional Sessions Judge, Gurugram, for short 'Trial Court' from the charges under Sections 376 and 506 of Indian Penal Code, for short 'IPC'.

2. The brief facts of the case are that prosecutrix made a complaint dated 15.05.2016 that she was married 15 years ago with Sanjay son of Narain Singh and having three children, but her husband died due to some illness nine years back. About six years ago, Pappal-respondent No.2, who is the son of Om Parkash (uncle of the husband of prosecutrix) gave her a proposal for marriage and on that pretext started developing physical relations with her with a further assurance that he will marry with the prosecutrix very shortly. However, he did not fulfill his promise and always

tried to misguide her on marriage proposal. During this period, under his disguise, he withdrew Rs.50,000/- from her bank account in Sarv Gramin Bank village Ghanghola, which was in the form of FD on the pretext that there is marriage of his sister and will return the money subsequently. During the period of Diwali, he again withdrew Rs.30,000/- from her F.D. and further had taken Rs.10,000, Rs.20,000/- and Rs.5,000/- from the prosecutrix on various occasions. This brings a total amount of Rs.1.15 lacs (Rupees one lac fifteen thousand) which was misappropriated by respondent No.2-Pappal and now, he is neither ready for marriage; nor returning the money. On the contrary, he showed her a country made pistol and threatened to kill her and thus prayed the police to protect her alongwith her children.

On the basis of the above statement, an FIR No.103 dated 15.06.2016 under Sections 376/506 IPC was registered at Police Station, Women, Sector 51, Gurugram. After investigation, report under Section 173 Cr.P.C. was submitted and thereafter the case was committed to Learned Sessions Court. The Trial Court prima facie found that offences under Sections 376 and 506 IPC were made out and framed charges against respondent No.2 to which he pleaded not guilty and claimed trial.

3. In order to prove the case, the prosecution examined six witnesses and brought on record documentary evidence.

On the other hand, respondent No.2 examined two witnesses, i.e. DW-1-Neeraj and DW-2-Omwati in his defence.

4. Learned Trial Court after taking into consideration the material available on record, acquitted respondent No.2 of the charges by observing that 'testimony of the prosecution witnesses are unreliable and unworthy of credence'.

5. Hence, the present application.

6. Learned counsel for the applicant has vehemently argued that Ld. Trial Court has committed a grave error of law while acquitting respondent No.2, as the applicant was put under fear of terror and she was exploited sexually by respondent No.2 on the pretext of solemnizing marriage and thus, the charges were duly proved. He has further argued that in the facts and circumstances of the present case, the finding of Ld. Trial Court that prosecutrix was a consenting party, are absolutely wrong.

7. Heard learned counsel for the applicant, but this Court does not find any substance in his arguments and the application deserves to be rejected due to the following reasons:-

(i) As per the case of the prosecutrix (PW-2) itself, she is a married lady having three children and her husband had died on account of some illness, nine years prior to the lodging of the complaint and respondent No.2 developed physical relations with the assurance that he will solemnize the marriage with her.

The prosecutrix herself has alleged that respondent No.2 is closely related to her being the son of Om Parkash, who was the uncle of her husband.

Admittedly, the prosecutrix was more than 30 years of age and being a grown up lady, knew the consequences very well. Thus, even if the allegations of prosecutrix for physical relations are accepted that is purely consensual.

The allegation that she was put under fear of terror and forced her to engage in sexual intercourse is not acceptable in view of the fact that there is no evidence at all to prove this allegation, except the bald statement of the prosecutrix. As per her own case, respondent No.2 used to visit her house and all the

relatives are residing there. Even her three children are also residing in the same very house, but no one has been examined to prove the allegation of terror or threat.

(ii) PW-6 Dr. Priya Dalal has deposed that prosecutrix told her that about six years back, she had sexual relations with respondent No.2 on the promise of marriage and her last intercourse with respondent No.2 is alleged to be five months prior to the complaint and thus, medical examination of prosecutrix is also not helpful to prove the charges against respondent No.2.

(iii) So far as the alleged monetary transactions are concerned, there is no evidence on record to prove that any such transaction has taken place between the prosecutrix and respondent No.2.

(iv) DW-1-Neeraj is the resident of same village and has deposed that prosecutrix is a quarrelsome lady and not having cordial relationship with anyone in the village. He has further deposed that generally, she makes false allegations and complaints against other co-villagers with a threat of dire consequences and then enter into compromise by accepting money and on one occasion, she had filed complaint of rape charges even against her own father-in-law and brother-in-law.

(v) Still further, DW-2 Omwati is the Member Panchayat of same village and has deposed in terms of DW-1. She stated that prosecutrix had made complaints at least against 10 (ten) co-villagers. Ex.D-1 is the copy of complaint which was made by prosecutrix against the husband of DW-2 for the allegations of rape and molestation, but all these complaints were found to be false. DW-2 has further deposed that respondent No.2 is innocent and has been falsely implicated by the prosecutrix.

8. In view of the above, this Court is fully in agreement with the reasoning given by learned Trial Court while acquitting respondent No.2 being the possible view. There is no merit in the present application to grant special leave to appeal.

9. Consequently, the application for seeking special leave to appeal is dismissed and leave to appeal declined.

(T.P.S. MANN)  
JUDGE

(MAHABIR SINGH SINDHU)  
JUDGE

14.11.2017  
Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No