

In the High Court of Punjab and Haryana at Chandigarh.

CRM-A No. 1591-MA of 2017 (O&M)
Date of Decision:- September 19, 2017

State of Haryana

.....Appellant

Versus

Ranjit Singh

.....Respondent

CORAM: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Gurvinder Singh Gill

Present : Mr. Ankur Mittal, Additional Advocate General, Haryana.

Gurvinder Singh Gill, J.

1. State of Haryana has filed this application seeking leave to appeal against the judgment dated 30.11.2016 passed by the Court of Additional Sessions Judge, Ambala whereby the accused Ranjit Singh charged for having committed offences punishable under sections 366, 376, 420, 406 IPC, has been acquitted.
2. FIR No. 25 dated 24.4.2015 was lodged at Police Station, Naggal, District Ambala the instance of Surjit Singh resident of village Jansua, District Ambala wherein he alleged that his son Satwinder Singh is residing in USA since 2011 and his daughter-in-law along with her two children is residing with the complainant and that on 21.4.2015, his daughter-in-law (hereinafter referred to as the '*prosecutrix*') had gone to Ambala for buying uniform for the children

but did not return back.

3. The prosecutrix was subsequently produced by the complainant and her sister Rajwinder Kaur and her statement was recorded under Section 164 Cr.P.C. by the Illaqa Magistrate. The prosecutrix was got medico-legally examined. The accused was arrested on 4.5.2015. Upon conclusion of investigation, challan was presented against the accused. The Trial Court after framing charges against the accused in respect of offences punishable under Section 366, 376, 420 and 506 IPC examined as many as 13 witnesses. The accused in his statement recorded under Section 313 Cr.P.C. pleaded false implication and stated that he has love affair with the prosecutrix and that he had never enticed or kidnapped her and she had travelled with him to different places at her will without any pressure or coercion and it was solely due to intimacy with him that she accompanied him and did not raise any alarm at any time either at Ambala, Amritsar or Chandigarh etc. The accused, however, did not lead any evidence in his defence.
4. The learned Trial Court upon appraisal of the evidence on record held that the prosecution had failed to prove the charges beyond reasonable doubt and accordingly acquitted the accused vide impugned judgement dated 30.11.2016.
5. The learned State counsel, while assailing the impugned judgment has referred to the statement of the prosecutrix and contended that in view of the specific and categorical allegations made in her statement, there is no ground to disbelieve the prosecutrix and that conviction can well be based even on the solitary statement of the prosecutrix. The learned counsel, thus, prayed for

grant of leave to appeal.

6. We have considered the submissions made by the learned State Counsel and have also perused the impugned judgment. A perusal of the same shows that the Trial Court has properly appreciated the evidence on record and noticed that the prosecutrix despite having several occasions when she was with the accused at different stations did not raise any alarm indicating that she was not under any kind of pressure or threat. Further, the medical examination of the prosecutrix did not even reveal existence of any injury on her so as to suggest use of any force on her. Though, the prosecutrix, while in the witness box, has taken a stand that the accused while assuring to send her to America had demanded an amount of ₹20 lacs and had taken her passport and documents as well as ₹2 lacs in advance in the year 2014 but during cross-examination she also stated that neither she or any other member of her family had ever visited the office of the accused. She admitted that she had been talking to accused on his mobile every 2-3 days since May 2014. Further she stated that she was raped for the first time in '*bara*' (courtyard) of their house in March 2015. That being so, then certainly it remains unexplained as to why she did not bring this fact to anybody's notice in the family. This allegation of rape in '*bara*' of her house is somehow missing in here statement recorded u/s 164 Cr.P.C.
7. The prosecutrix is a mature married lady having children. As such, it cannot be said that she was enticed away by the accused. The fact that the prosecutrix had various opportunities to raise alarm but chose not to do so causes a serious dent in the case of prosecution. The evidence led by the prosecution does not suggest that the prosecutrix had been subjected to forcible sexual intercourse

by the accused so as to attract offence under Section 376 IPC. There is no misreading of evidence by the Trial Court. In any case, law as regards challenge to acquittal is well settled to the effect that acquittal is not to be disturbed normally and even if other view is possible, the same would not justify interference in an order of acquittal.

8. Hon'ble Apex Court in a case reported as 2016 SCC OnLine SC 834 Madathil Narayanan & Ors. V. State of Kerala & Anr. held as under :-

“It is a well settled principle of law that if two views are plausible, the view which goes in favour of acquittal has to be adopted. This legal principle has been reiterated by this Court in the case of *Arulvelu v. State rep. by the Public Prosecutor* In the case of *Bindeshwari Prasad Singh @ B.P. Singh v. State of Bihar (now Jharkhand)*, this Court has held that in the absence of any manifest illegality perversity or miscarriage of justice, the order of acquittal passed by the Trial Court may not be interfered by the High Court in exercise of its appellate jurisdiction. The aforesaid view has further been reiterated by this Court in the following two cases viz. *Rathinam @ Rathinam v. State of Tamil Nadu* and *Sunil Kumar Sambhudayal Gupta (Dr.) v. State of Maharashtra.*”

9. A Division Bench of this Court, in a case reported as 2016(2) Law Herald 1603 Mithlesh vs. State of Haryana and another. while upholding acquittal of an accused charged with committing rape, noticed the following facts which are identical to the present case :-

“It is also important to note that the applicant was a mature female of 24 years. She herself was maintaining physical relations with

respondent No.2 and never lodged any complaint for a period of about one and a half years. It does not inspire confidence that she would have suffered harassment to the alleged extent and would keep mum for such a long period without disclosing the alleged tale of her harassment even to her parents. She intimated the alleged sexual harassment to her father just two days before the registration of FIR. Defence taken by respondent No.2 gets corroboration from the statement of PW10 Dr. Sarita Rani, Medical Officer, who medico legally examined the applicant that there were no signs of injury on the person of the applicant.”

10. The impugned judgment is well reasoned and there is no infirmity in the same. Additionally, it may be mentioned here that even delay in filing the appeal is not sufficiently explained. We do not find any case for grant of leave to appeal against judgment of acquittal. The application is devoid of merits and is dismissed.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

September 19, 2017

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Whether speaking/reasoned

Yes/No

Whether re portable

Yes/No