

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-A No. 304-MA of 2016

Date of decision : March 16, 2017

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Bimla

.....Petitioner

Versus

Kuldeep and another

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Ajay Kaushik, Advocate for the applicant.

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RITU BAHRI, J.

Present application has been filed for grant of leave to appeal against the judgment of acquittal dated 17.11.2015 passed by the Additional Sessions Judge, Karnal, whereby the respondent-Kuldeep has been acquitted of the charges framed against him under Section 354 IPC.

Briefly stated, case of the prosecution is that on 6.5.2015, prosecutrix moved an application to the police mentioning therein that one Kuldeep son of Madan Lal used to harass her. Her husband was working at

Chandigarh and when he was away to Chandigarh, Kuldeep scuffled with her and teased her. She disclosed these facts to her husband but even on asking of her husband, he did not mend his ways. On 6.4.2015, her husband was at home. She went for some work at Bus Stand when Kuldeep encircled her and started teasing her. She raised alarm. On hearing the same, her husband and sister-in-law Santer came there. On seeing them, Kuldeep ran away from there while threatening her. On the basis of this application, FIR No. 155 dated 06.05.2015 under Sections 354 of Indian Penal Code was registered in Police Station Assandh.

After conducting investigation, accused was arrested and challan was presented against him. Accused was charge sheeted for commission of the offence punishable under Sections 354 and 506 IPC and Section 3 of Scheduled Caste and Scheduled Tribes (Prevention and Atrocities) Act, 1989, to which he pleaded not guilty and claimed trial.

Prosecution examined Surinder Kumar, Clerk as PW-1 who has produced the record pertaining to caste certificate Ex.P1 and stated that the said certificate was issued to prosecutrix being "chamar" by caste.

Prosecutrix appeared as PW-2 and reiterated her version as stated in the FIR.

Husband of the prosecutrix, Dharam Pal, PW-3 stated that Kuldeep used to tease his wife and this fact was told to him by his wife. In this regard, he sent somebody to Kuldeep' house to talk to him. He admitted his guilt and assured that he would not repeat his conduct in future. On 6.4.2015, his wife went to their plot near their house at about 8:30 a.m. On hearing her cries, he went there along with his sister Santer. Kuldeep was holding the hand of his wife and on seeing them, he ran away from there.

He even threatened his wife to kill her and her children if she disclosed this fact to anybody.

PW-4, ASI Rajesh Kumar and DSP Baljinder Singh PW-5 were formal witnesses.

Accused were examined under Section 313 Cr.P.C. To prove the charge under Section 354 , there were sole statements of the prosecutrix. Prosecutrix, at one point of time, stated that the place of occurrence was bus stand and on the other hand, she stated that it was their bara. ASI Rajesh Kumar (PW-4) in his cross-examination mentioned that the place of occurrence was in a street adjacent to bus stand. The place of occurrence in itself is doubtful in the present case. Further in the application Ex.P-2, the prosecutrix stated that the accused encircled her and started committing obscene activities. But while making statement U/S 164 Cr.P.C, she stated that accused teased her. She took entirely different stand while appearing as PW-2. She stated that the accused caught hold of her arm and even touched her shoulder. The complainant has taken three different stands about the incident and place of incident. In these circumstances, her statement becomes doubtful. In her cross-examination, she admitted that the accused was challaned under Sections 107/151 Cr.P.C. Thus, it showed that there was already a dispute between the parties prior to the incident in question.

Keeping in view that the prosecution evidence was not even consistent with regard to the place of occurrence and further in the backdrop of dispute between the parties in which both the parties were challaned, the judgment of acquittal has been rightly passed after appreciating the evidence in the right perspective.

In view of all that has been discussed above, there is no

illegality or infirmity in the order of the trial Court that requires interference of this Court. Therefore, application praying for leave to appeal is hereby declined.

16.3.2017

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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No