

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-330-MA-2016

Date of Decision:- 19.01.2017

State of Punjab

....Appellant

Versus

Randhir Singh

....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sidakmeet Singh Sandhu, AAG, Punjab
for the appellant.

RITU BAHRI, J. (Oral)

The State of Punjab-appellant has filed the present application under Section 378(3) Cr.P.C. for seeking leave to appeal from the judgment dated 16.01.2015 whereby learned Additional District and Sessions Judge, S.B.S. Nagar, has acquitted accused Randhir Singh.

As is evident from the record that learned Additional District & Sessions Judge, SBS Nagar, after taking into consideration the facts and all the contentions pertaining to appreciation of evidence, has acquitted the accused, by virtue of impugned judgment dated 16.01.2015, which in substance is as under: -

“15. It stands admitted by the prosecutrix that there are many residential houses around the place of occurrence and he had been going to the house of accused earlier and used to be with the children of the accused and staying there in his house for the last 4 years and her mother had been going to his house twice a day and had been washing the household utensils daily. Hence, there existed good relations between them for 4 years. It is also admitted by her that accused has not made the monthly payment of

washing his utensils. It is necessary to notice here, that, as to why this fact has been concealed by PW1 Harjinder Kaur complainant, the mother of the prosecutrix that they were still working in the house of accused and as to why did she state that for the last 3 years, she has not done any work. It is also necessary to mention here that already the version of the complainant is that he caught hold of her daughter from her arm and took her to his house on the pretext to wash his utensils. It is strange and unbelievable as to why would a person catch hold of the arm of a person on the pretext of washing his utensils and expect her to work for him, if she had left his work of washing utensils 3 years ago. Therefore, certainly, the complainant has stated a false version that she had not been washing the utensils of the accused for the year 3 years, whereas her daughter/prosecutrix has stated that she was going to the house of accused, remained with the children of accused, for the last 4 years and washing utensils twice daily. This concealment and distortion on the part of the complainant/mother of the prosecutrix create suspicion in the mind of this court, as to why this fact has been concealed by her. Next point, which raised suspicion is that she stated that she went to Police Station, Rahon at about 11 a.m., whereas her statement Ex.PW6/A was recorded by ASI Kashmir Singh and it shows that Harjinder Kaur got her statement recorded to the police party when they were present at Neelowali Pulli. Not only this, even cousin of the prosecutrix, namely, Gurpreet Singh has not been examined by the prosecution and has been given up being of repetitive nature. Examination of PW Gurpreet Singh was necessary to corroborate the version of the prosecutrix, since according to PW2 the prosecutrix, on her raising raula, Gurpeet Singh had rushed to her house to inform her mother and in his presence Randhir Singh accused had allegedly caught hold of her. Further it has been stated by Harjinder Kaur complainant that Lakhwinder Kaur and Swaranjit Kaur also suffered statements before the IO at that time. But both these witnesses are neither examined, nor are they cited as witnesses. Even ASI Kashmir Singh, IO admitted in his cross examination that no neighbor was joined in the investigation of this case when he visited the place of occurrence and admitted that even during the whole investigation, he did not join any neighbour in the investigation of this case. Therefore, the statement of the minor prosecutrix is not corroborated by any other probable witness, i.e., Gurpreet Singh, Lakhwinder Kaur and Swaranjit Kaur or any other neighbour and the statement of PW1 Harjinder Kaur complainant and mother of prosecutrix is already discrepant from the version of the prosecutrix. It stands admitted by the prosecutrix that accused was not paying their monthly dues and has abused her mother, which is very plea of accused, which stands confirmed from the above said version of the prosecutrix. The non examination of the above said witnesses and the discrepancies found in the statements of the complainant create a doubt about the commission of offence by the accused. Another factor which create doubt is that according to the prosecutrix, she received scratches on her neck, but it has not come up in the version of the 2 witnesses, i.e., complainant and the prosecutrix that accused ever ever touched her from the neck. Moreover, ASI Kashmir Singh also stated that the victim was not got medically examined in this case to ensure whether there was any bodily injury on her person or not. Therefore, the above said circumstances,

discrepancies, infirmities and the doubts, coupled with the uncorroborated testimony of the prosecutrix, make this court conclude that the prosecution has failed to prove that while holding the prosecutrix in his arms, hugging her and kissing her without any other overt act of undressing her even, he had any intention to outrage her modesty. Due to the above said suspicions and the concealments made by the complainant, the case of the complainant seems to be doubtful, thus entitling the accused to the benefit of doubt. Hence, while granting the benefit of doubt, the point of determination is decided against the prosecution and in favour of the accused.

16. As a consequence of my findings on the point of determination afore said, while granting the benefit of doubt, the accused is hereby acquitted of the charges framed against him.”

After hearing the learned counsel for the appellant, going through the judgment of acquittal, this Court is of the considered view that the appellant-State has miserably failed to produce any cogent evidence on record to prove the charges against the accused. Therefore, no interference is warranted in the impugned judgment. Such judgment, containing valid reasons, cannot possibly be interfered with by this Court, unless and until, the same is illegal, perverse and without jurisdiction. Since, no such patent illegality or legal infirmity has been pointed out by the learned counsel for the appellant, so, the impugned judgment deserves to be and is hereby maintained in the obtaining circumstances of the case.

In the light of aforesaid reasons, as there is no merit, therefore, the instant appeal is hereby dismissed as such.

January 19, 2017
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No