

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. A-968-MA of 2016

Date of Decision : November 07, 2017

Manju

....Applicant

VERSUS

State of Haryana and others

....Respondents

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

Present : Mr. Arnav Sood, Advocate
for the applicant.

T.P.S. MANN, J.

The complainant has filed the present application under Section 378(4) of the Code of Criminal Procedure for the grant of special leave to appeal against the judgment dated 6.2.2016 passed by the learned Additional Sessions Judge, Narnaul, whereby the accused, namely, Hukam Singh, Sukhrampal and Anil, respondents No.2 to 4 herein, were acquitted of the charges under Sections 120-B, 366/120-B and 376/120-B IPC.

According to the complainant, she hailed from village Jaswas and lived at a tube-well outside the village. On 16.6.2011, Hukam Singh and Sukhrampal accused misgued her and obtained documents, cash and jewellery and after kidnapping her, took her to Bharatpur in Rajasthan to the house of Anand. In a room, Hukam Singh and Sukhrampal accused committed rape upon her. She was, thereafter, taken to Baroda in Gujarat by the said accused, where they took a room on rent and committed rape upon her. She was then taken by accused Hukam Singh to his relations in Meghot and forcibly restrained, besides being threatened. Hukam Singh accused used to make telephone call. His call was traced by the police of Police Station Mahendergarh but he

switched off his mobile. Sukhrampal accused also used to make telephone call to his village and relations. They used to threaten her that in case she disclosed to anyone, her husband and children would be killed. Hukam Singh and his companions brought her in a vehicle and he made a call to Satyavir, Sarpanch of village Majra, for sending an amount of Rs.Seven lakhs. After that, the complainant was taken to Narnaul, where an Advocate and son of SI Attar Singh, besides one more person took her to the Court. SI Krishan produced her before the Ilaqa Magistrate after telling her that she should not speak anything or else her husband would be killed. Accordingly, SI Krishan made a statement to the Ilaqa Magistrate as per wishes of the accused. Her family members also came inside the Court and she narrated the entire episode to her husband and family members. Her affidavit was prepared and she made statement to the DSP. However, no action was taken on her complaint. She was also not medically examined. On 29.7.2011, she was medico-legally examined.

After hearing learned counsel for the complainant and on perusing the record, this Court finds that it was the complainant herself who had gone with the accused of her own free will. She did not raise any hue or cry when she boarded the vehicle. She remained with the accused for almost 1½ months. In her statement Ex.D1 recorded by the Ilaqa Magistrate, she stated that she was not under any kind of pressure or duress and she was voluntarily making statement. Even when she returned to Mahendergarh, she did not go to the Police Station. Rather, she hid herself near the wall. PW5 Dhanpat stated that they had found her hiding by the side of a wall. PW5 Dhanpat deposed that he alongwith the husband of the prosecutrix and others went to Mahendergarh Court

where they found the complainant standing outside the Court all alone and, thus, there was no occasion for the accused to have pressurised her. She told them that she had made statement before the Magistrate after she was taken from there by three persons but she did not tell the names of those persons.

Mere presence of human semen on the vaginal swabs of the complainant would not be sufficient to hold the accused guilty as she was a married lady and had two children. She was taken by the accused on 16.6.2011, however, the FIR was lodged on 23.6.2011, i.e. after seven days. This delay has not been explained by the prosecution. As per the CCTV footage and pen drive produced on the file, alongwith other documents, i.e. attendance register of accused Anil Kumar and Sukhrampal, both of them remained on duty on the date of occurrence. As such, it cannot be believed that they had kidnapped the complainant. The matter was also investigated by the police and subsequently, it was cancelled being false.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal.

The application is without any merit and, therefore, dismissed. Special leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(MAHABIR SINGH SINDHU)
JUDGE

November 07, 2017
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Whether speaking/reasoned : YES / NO

Whether reportable : YES / NO