

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. No.A-843-MA of 2017

Date of Decision : August 17, 2017

Smt. Bimla

.....Applicant

Versus

State of Haryana and another

....Respondents

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

Present : Mr. Naveen Singh Panwar, Advocate
for the applicant.

T.P.S. MANN, J.

The prosecutrix has filed the present application under Section 378 Cr.P.C. for grant of leave to appeal against the judgment dated 6.2.2017 passed by learned Additional Sessions Judge, Special Court, Sonipat whereby accused Rati Ram @ Ravinder, respondent No.2 herein, stood acquitted of the charges under Sections 354 and 376(2)(n) of the Indian Penal Code and Sections 3(1)(xi) and 3(2)(V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

According to the prosecution, the prosecutrix was resident of Dahiya Colony, Sonipat, whereas the accused was resident of Nai Basti, Bakner, Narela. He used to blackmail her. On 23.9.2015, he had come to her house and after uttering words derogatory to the

caste of the complainant, committing rape upon her and left the spot. Even prior to the incident the accused had committed rape upon her twice. On 2.10.2015, the accused again came to her house at 11.00 a.m. and tried to sexually assault her upon which she raised an alarm, which attracted her neighbour and the accused was handed over to the police. The prosecutrix then submitted written complaint to the police, whereby she requested for taking action in the matter.

Having heard learned counsel for the applicant and on going through the impugned judgment of acquittal, this Court finds that there are three different versions of the prosecutrix on record. In the complaint Ex.PW8/A submitted by the prosecutrix on the basis of which the FIR was registered, she stated that the accused used to blackmail her. On 23.9.2015, the accused came to her house and after uttering derogatory words regarding the caste of the complainant, committed rape upon her. She also stated about the accused committing rape upon her previously on two occasions. He had again come to her house on 2.10.2015 at 11.00 a.m. and tried to sexually assault her. The next version of the prosecution came out by way of the statement of the prosecutrix under Section 164 Cr.P.C. In the said statement, she averred that she knew the accused since long as the accused had provided his vehicle on rent to the school where she was doing job and he had also got purchased some articles for her children. As she was unable to repay the amount spent by the

accused, the latter had started blackmailing her and he committed rape upon her thrice by visiting her house. The third version of the occurrence came out by way of deposition of the prosecutrix, who stepped into the witness box as PW8. In her deposition, she made several improvements upon her initial version. In her complaint, she had not mentioned that she knew the accused previously, whereas in her statement before the Magistrate she deposed that she knew the accused for the last several days. She had also not disclosed the factum of the accused blackmailing her for an amount of Rs.1,000/- in her initial complaint. While appearing in the witness box she did not depose regarding her acquaintance with the accused. Further, the deposition before the Court was contrary to her stand taken at the time of submitting written complaint. In the statement made before the Magistrate, she had stated about the accused using derogatory language regarding her caste on 2.10.2015, whereas in her complaint and sworn testimony, she deposed that the accused used derogatory words on 23.9.2015. In her statement before the Magistrate, she stated about the accused committing rape upon her on 2.10.2015 also, whereas no such allegation was levelled by her in her written complaint or in her sworn testimony. The FIR was registered on 2.10.2015 on the basis of written complaint submitted by the prosecutrix. However, she did not lodge any complaint to the police when the accused had first committed rape upon her. Her explanation

for not reporting the matter to the police or her family members that she had been threatened cannot be believed. According to the prosecutrix, the accused had visited her matrimonial home at Dahiya Colony twice and committed rape upon her and on 23.9.2015, he also visited her house and committed rape upon her. The prosecutrix, while under cross-examination, testified that in the house where the incident had taken place, her husband and her mother-in-law also resided alongwith her. In such a situation, she could have easily informed about the incident to her husband or her family members. She was a grown up and mature lady and not a child who could have surrendered easily to the sexual assault and, that too, by offering no resistance. It may also be mentioned here that the defence had confronted the prosecutrix with certain hand written papers purporting to be love letters written by her to the accused and one more document, said to have been written with blood by her to the accused. Though she denied writing those papers yet the Forensic Science Laboratory in its report Ex.DA opined that those documents were in the handwriting of the prosecutrix.

As regards passing of derogatory remarks regarding the caste of the prosecutrix, again three different versions were given by her which renders the version of the prosecutrix to be false. Moreover, neither the caste certificate of the prosecutrix nor that of the accused has been taken on record nor there is any allegation that

the prosecutrix was sexually assaulted or raped by the accused as she belonged to a scheduled caste. It is also nowhere shown by the prosecutrix that the accused had used derogatory language in public view.

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. Leave to appeal is declined.

August 17, 2017

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**(T.P.S. MANN)
JUDGE**

**(MAHABIR SINGH SINDHU)
JUDGE**

Whether reasoned/speaking : YES / NO

Whether reportable : YES / NO