

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No.9859 of 2018 in/and
CRA-D-1026-DB-2015
DATE OF DECISION: March 22, 2018

Sapna

...Applicant

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Jitender S. Chahal, Advocate for the applicant.

DEEPAK SIBAL,J.

Through the instant application filed under Section 378(3) of the Code of Criminal Procedure, 1973 (for short-Cr.P.C.), the applicant seeks the grant of leave against the judgment dated 21.4.2015 passed by the Additional Sessions Judge, Yamuna Nagar at Jagadhri (for short-the trial Court), through which respondents No.2 and 3 were acquitted of the charges framed against them under Section

376(2) of the Indian Penal Code, 1860 (for short-the Code) and Section 4 of the Dowry Prohibition Act, 1961 (for short-the Act).

Briefly stated, the case of the prosecution is that respondent No.2-Sunny, who was on visiting terms to the house of the prosecutrix, developed physical relations with her by alluring her for marriage and when this fact came to the knowledge of their families, a panchayat was convened and with the consent of both the families, they decided that court marriage between the prosecutrix and respondent No.2-Sunny would be performed. However, the relatives of respondent No.2-Sunny started making demands of dowry and since the same were not met, respondent No.2-Sunny did not come to marry the prosecutrix on the arranged day in spite of the fact that the family of the prosecutrix had made all arrangements for the wedding. When the family of the prosecutrix went to the house of the respondent No.2, they were informed that till the time the demands for dowry are met, the wedding would not take place.

On completion of investigation, final report under Section 173 CrPC was filed in the Court of Illaqa Magistrate against respondents No.2 and 3 but since the subject matter of proceedings was triable by the Court of Sessions, the case was committed to the Court of Sessions from where it was

marked to the trial Court, who on finding a prima facie case, charged respondents No.2 and 3 for offences punishable under Section 376 of the Code and Section 4 of the Act. When both the accused pleaded not guilty, they were put on trial.

The trial Court, after sifting the evidence which has come on record, acquitted respondents No.2 and 3, giving them the benefit of doubt. It is such acquittal of respondents No.2 and 3 which is the subject matter of challenge in the present proceedings.

Learned counsel for the applicant, while reiterating the submissions made on behalf of the prosecution before the trial Court, submitted that respondents No.2 and 3 have wrongly been acquitted as there was overwhelming evidence on record clearly proving them to have committed the offences for which they were charged.

The submissions made by learned counsel for the applicant have been considered but the same do not warrant acceptance.

The prosecutrix while appearing before the trial Court deposed that since the year 2006, she and respondent No.2-Sunny were involved in a relationship and during this time, on the pretext of marriage, respondent No.2-Sunny had forced physical relations with her. However,

on 19.5.2014, respondent No.2-Sunny had got engaged with some other girl but on lodging a protest by herself and her family members, he had agreed to get married with her. After the afore-referred assurance, demands of dowry were made by respondent No.2-Sunny and his family and when the same were not met, he and his family did not turn up on the arranged date of marriage in spite of the fact that all arrangements had been made by the family of the prosecutrix.

Except the bald statement of the prosecutrix, there is no evidence found on the record which would establish relations between the prosecutrix and respondent No.2-Sunny since the year 2006. A perusal of the record further reveals that no medical evidence is also found between the years 2006-2014 showing that the prosecutrix was ever subjected to rape. It is also highly improbable that for a period of eight years, respondent No.2-Sunny continued to force himself upon the prosecutrix without her bringing such fact to the notice of her parents or any other person.

From the above, it appears that the intimate relations between the prosecutrix and respondent No.2-Sunny, if any, were consensual and when their relationship

did not end up in marriage, the prosecutrix accused respondent No.2 of rape.

So far as the allegations with regard to demand of dowry are concerned, the prosecutrix while appearing before the trial Court stated that a demand of Rs.1 lakh was raised by respondent No.3-Ramesh and other family members of respondent No.2-Sunny. However, such fact is found missing in her statement recorded under Section 164 CrPC. None of the family members of the prosecutrix were also examined by the prosecution to substantiate the above fact and no explanation is found on the record as to why such material evidence was with-held.

Geeta, sister of the prosecutrix, appeared before the trial Court as PW8. She does not refer to any demand of dowry by respondents No.2 and 3. Similarly, PW9-Kamla, who is aunt of the prosecutrix, also does not give any specific particulars with regard to the demand of dowry by respondents No.2 and 3. Both the PWs only vaguely deposed that marriage between the prosecutrix and respondent No.2-Sunny did not take place on account of demand of dowry.

In view of the above, no fault can be found in the impugned judgment acquitting respondents No.2 and 3 by giving them benefit of doubt.

Accordingly, the present application is found
devoid of any merit and, therefore, dismissed.

Resultantly, leave to appeal is declined.

(T.P.S.MANN)
JUDGE

(DEEPAK SIBAL)
JUDGE

March 22, 2018
Kd

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No